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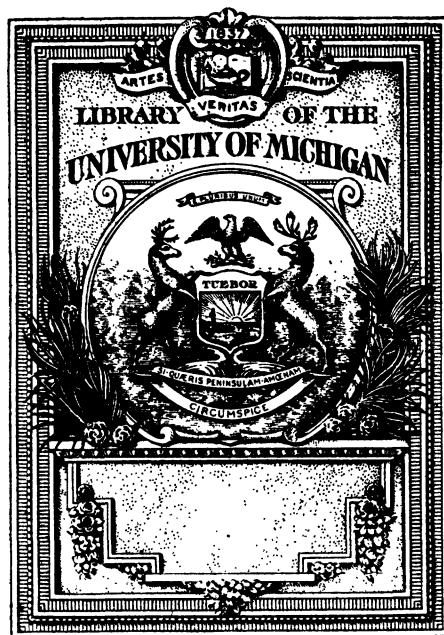
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PROCEEDINGS
OF THE
CONSTITUTIONAL
CONVENTION

ILLINOIS
1810-1820



VOLUME II
PAGE 1028-2070



Proceedings

of the

I. No. 100

Constitutional Convention, 1920-

of the

STATE OF ILLINOIS

Convened January 6, 1920



VOLUME II

Compiled by
Committee to edit the proceedings of the Convention

WILLIAM S. GRAY
JOHN L. DRYER
RODNEY H. BRANDON

Committee



ILLINOIS STATE JOURNAL Co.
SPRINGFIELD, ILLINOIS
1921

47696—3M

Illinois State Lib.
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OFFICERS OF THE CONVENTION.

President

CHARLES E. WOODWARD
Ottawa

Secretary

B. H. McCANN
Bloomington

FRIDAY, APRIL 23, 1920.**10:00 o'Clock A. M.**

The Convention met pursuant to adjournment.

The President in the chair.

Prayer by the Chaplain.

THE PRESIDENT. The Journal of Wednesday, April 21, 1920, was placed on the desks of the delegates on yesterday and is now subject to correction. There being no corrections proposed, the Journal of Wednesday, April 21, 1920, will stand approved and it is so ordered.

Whereupon the Convention proceeded upon the order of general orders of the day, reports of standing committees, reports of select committees, introduction of proposals, first and second reading of proposals, motions and resolutions, unfinished business, and general orders of the day.

THE PRESIDENT. Under general orders of the day there are several reports of committees pending before the Convention. The Convention is now ready to resolve itself into the Committee of the Whole for the purpose of considering reports of committees.

Mr. LINDLY (Bond). I am placed in rather a peculiar position this morning in regard to the report of the Committee on Public Works. Delegates Scanlan, Jarman, Johnson and nearly all of the committee have been called away, and with the exception of my friend from Chicago (Wilson) and myself, they are all gone, and I question the prudence of taking up a report of a committee when there are so few present, the facts being that if we make a statement of the reason the committee has for making this report, when the house comes back it will all have to be gone over again. Those who are absent would not understand the reasons, and we would have to discuss it. However, if the Committee of the Whole want to take this matter up I am subject to their will, and will proceed, but I would like to have it gone over. This report has been before this Convention for about four weeks, and it seems it comes up for consideration every Friday when there is nobody here. I would like to have an expression from the Convention as to what they desire.

Mr. SUTHERLAND (Cook). It seems to me we can make some progress this morning. If we begin the consideration of this report, and it comes to a question of points upon which there is a difference of opinion, we can properly pass that section of the report. It hardly seems fair to those who have stayed over for this session that we should adjourn with nothing done, when the adjournment was taken with the implied suggestion at least that the regular business of the Convention proceed. I had hoped that no one would raise the question of quorum and that we might proceed with the understanding that if there was any difference of opinion, that could be passed until there was a full attendance.

Mr. LOHMAN (Cook). I move we proceed with the consideration of the report of the Committee on Public Works and Improvements.

(Motion prevailed.)

THE PRESIDENT. The Convention will now resolve itself into the Committee of the Whole.

Mr. LINDLY (Bond). Since nearly all are absent from the committee, if it is the intention of the President to call me as chairman of this committee, I would suggest that it will be necessary for me to stay on the floor to make explanations, and I desire that you ask Mr. Wilson to act in the capacity of chairman.

THE PRESIDENT. The Chair will ask Mr. Wilson of Cook county to act as chairman of the Committee of the Whole. (Applause.)

(Mr. Wilson presiding.)

CHAIRMAN WILSON. The committee will please come to order. The Secretary will please read the report of the committee.

(Clerk reads report.)

Mr. LINDLY (Bond). In behalf of the committee, briefly I will state some of the reasons why this report was made in its present form. In the first place in 1870, those who have read the history of that Convention and the conditions of the times, the history of the State, will find that there was a considerable controversy between the railroads and canals at that time, and they inserted in the Constitution that no aid should be given to canals and railroads, which was a wise provision, probably. I have no objection to that. There is no need of entering into a discussion of that question here, but the conditions now have changed and the necessity of canals and waterways and the improvement of waterways is apparent. The people of this State have voted on that subject, and I do not care to discuss the deep waterway proposition. The legislature has provided for the construction of canals, I think even eight feet deep and with mitre sills fourteen feet deep; whether we approve of that or whether we think it should be fourteen feet deep by twenty-four feet mitre sills, is not the question to be considered by this Convention, but the fact they have authorized the construction of this, and we will have a canal, and the power derived from that will be sold by the State, makes it important that the State should be in the position, our legislature should be in position, to take care of the twenty million dollar investment that the State has made. They should provide the necessary support, and make the necessary appropriation to keep this canal in condition, and water power in condition. For that reason we thought we ought to cut out that portion which said "no appropriation should be made for the construction and maintenance of canals and railroads." I was asked why we left out railroads in here. We thought that section Twenty of article Four in the Constitution would be sufficient to provide the safeguard in that matter, and that if necessary the legislative committee ought to put in there simply a sentence providing no aid should be given to railroads. We thought there ought to be a vote upon this proposition, if any of the waterways should be offered for sale, that protection was put in there to keep the railroads from buying and selling the canal. We thought it proper to retain that section, that the canal could not be sold, and because of the fact that the State is now building another canal, we ought to include "other canals and waterways," so that the one they are constructing now and will produce the energy, if sold, could not be sold without the consent of a majority of the vote of the people voting at that election. Another reason was if they constructed the new canal, there might not be any use for the old canal. The old canal has ninety feet on each side which belongs to the canal. It has important terminal facilities near Chicago. It was thought the only portion of that canal that could be used with the improvement of the waterways would be probably a harbor in Chicago for the boats and some lands to be used wherever the entrance was made for the terminal of railroads, where they might load and unload the barges on the canal. Concerning the rest of the property they might submit the question to the people to see if it should be sold or not. I talked over this matter with an important engineer some years ago, a Mr. Cooley, and he suggested that the property belonging to the Illinois and Michigan canal was worth about eight million dollars. I do not know as to the value of the property, but that was the estimate he put upon it, and for that reason we thought it would be necessary to submit this to the people, and we put that in. Now, the question came up as to whether or not under this provision any land that was separated from the canal (the State owned some land that was disconnected from the canal, and they were afraid that without providing especially for the sale of this land—these little lots—I am informed by the department there are fourteen acres down in southern Illinois somewhere, and some little property in Ottawa disconnected from the canal, and some lots near Chicago that are

not connected with the canal at all; this is the explanation the department gave to us) could be sold without the vote of the people. So they thought they ought to provide in the second portion there that this could be sold without the vote of the people, and they said if it was worth one or two thousand dollars, or seven or eight thousand dollars, they thought it was hardly necessary to submit that whole proposition to the people, when under the Leasing Law that was passed in regard to this it was necessary before anything could be sold to have the written consent of the Governor, and before any lease was made that it was necessary to have the consent of the Governor and publication for thirty days in the newspapers.

Mr. HULL (Cook). They can sell this disconnected land and lots now, can't they?

Mr. LINDLY (Bond). The department claims there might be some question about it, and for that reason they put it in there.

Mr. HULL (Cook). They have been selling them, haven't they, in the past?

Mr. LINDLY (Bond). Some few, I think.

Mr. HULL (Cook). I ask this question because I understand under the present law they can sell those lots, and lands not connected with the waterways, with the Illinois and Michigan canal.

Mr. LINDLY (Bond). There is all that this says.

Mr. HULL (Cook). But this says "not needed in connection with navigation, power development, terminals, docks, or other appurtenant works;" the question I have in mind is this, who is to determine whether they are needed or not needed? Does this authorize an administrative exercise of judgment as to whether they are needed or not needed, which cannot be questioned in court?

Mr. LINDLY (Bond). I think the Department and the Governor might determine that matter. It does not seem to me it would take much to determine whether it is connected with the canal or not.

Mr. HULL (Cook). If this strip of land is right next to the canal, and it is needed for a private enterprise up there, and the State authorities could have the power to sit in judgment on the question to say this was not needed, "in connection with navigation, power development, terminals, docks, or other appurtenant works," would that be an exercise of administrative judgment that could not be questioned?

Mr. LINDLY (Bond). I understand the land on the right of way of the I. and M. Canal from Joliet to Chicago is very valuable, and I understand that the people have gone in there now in some of the places and have taken possession of it because of the abandonment of the canal. There are questions in the court now regarding the possession of this land. I thought and the Department suggested this to us, and we acquiesced in it, and we discussed this proposition quite at length, and I have raised in the committee the same question that you have raised, and they contended that they thought, to protect this proposition that this proviso would not leave it open.

Mr. HULL (Cook). If they have the power now to sell certain lands that are not a part of the Illinois and Michigan Canal, or other canals or waterways, how does this protect?

Mr. LINDLY (Bond). I don't mean protect. It would give the authority to do that, to sell the separate lands without the vote of the people on that question.

Mr. HULL (Cook). What are they going to sell?

Mr. LINDLY (Bond). Those lands not in connection with the water power, and so on.

Mr. HULL (Cook). Who is to exercise the judgment as to whether they are needed or not needed "in connection with navigation, power development, terminals, docks or other appurtenant works?" Are you giving them administrative judgment here in your Constitution which could not be questioned?

Mr. LINDLY (Bond). With my understanding of the present condition, if the Department of Public Works were to dispose of a piece of land, the first thing they have to do is to go down to the Governor and get his written

consent; that is my understanding of it, and if he gives his written consent, they have to give notice for thirty days in the newspapers. I think the safeguard of this would be, first the judgment of the Department and then the judgment of the Governor.

Mr. MULL (Cook). Are you giving that administrative judgment what it would have under the present law where it is provided by act of legislature, are you giving it a status by putting it in the Constitution which the Court could not question?

Mr. DUNLAP (Champaign). May I interrupt to say that I have an amendment bearing on this particular subject, and that we might discuss that amendment.

Mr. LINDLY (Bond). There was another question here, and that was the revaluation of any lease that was made; the committee thought first that it would be well to leave that in the hands of the legislature, because the legislature in writing the bill and passing it, had included a ten year revaluation in that bill, so somebody said that probably the legislature would not have put it in if it had not been in the Constitution, so we put it back in the Constitution, so no lease could be made of any rights of the canal without having a revaluation every ten years.

Mr. HULL (Cook). "This restriction shall not apply to the lease of water or sites for power development, sale or lease of energy developed from water powers, or of lands and lots not needed in connection with navigation, power development, terminals, docks or other appurtenant works, but the rental specified in any such lease shall be subject to revaluation every ten years;" you could not revalue the sale; what does that cover?

Mr. LINDLY (Bond). Where we sold the energy, the power for so much per kilowatt.

Mr. HULL (Cook). Would a sale be different from a lease?

Mr. LINDLY (Bond). Yes, they might sell the energy fifty or two hundred miles, the State might, that would be a sale that you would not have to revalue every ten years, but you might lease the energy at the plant, and let them dispose of it, for the production of the energy.

Mr. HULL (Cook). Could they make a sale for more than ten years?

Mr. LINDLY (Bond). They would not have to revalue it if they made a sale at one price for ten years, and then make another sale, it would be satisfactory. My judgment is they could make a sale at anytime.

Mr. HULL (Cook). For how long?

Mr. LINDLY (Bond). If they would make a sale and sell this energy to the public for twenty years at a certain price, they could not do that, but only for ten years, and then it would have to be revalued.

Mr. HULL (Cook). "But the rental specified in any such lease shall be subject to revaluation every ten years;" what does that mean?

Mr. LINDLY (Bond). What do you think it means?

Mr. HULL (Cook). I don't know, that is why I am asking you questions. I don't want to see in there that the legislature can authorize a sale for fifty years, say.

Mr. LINDLY (Bond). It was the intention of the committee it could not be sold for ten years without revaluation.

Mr. HULL (Cook). Is there any reason why it should not be stricken out?

Mr. LINDLY (Bond). I see no objection to it.

Mr. HULL (Cook). They would have the power to sell the energy even without specific authority; this is an inhibition against the selling of energy or power for a longer period than ten years.

Dr. DUNLAP (Champaign). May I call attention to the fact that this statement also relates to the sale of land and lots not needed in connection with navigation. It might refer to them, that is a matter of sale.

Mr. HULL (Cook). Then the word "sale" ought to be introduced in front of the words "of land and lots."

Mr. LINDLY (Bond). I see no objection to that; I have no objection to striking out the word "sale" in line eight and transferring it to line nine. I would like to do this though with the consent of the committee. I think

it is unfair to force this proposition at this time. I think there are members like Mr. Scanlan, who live near this canal, who ought to be here, I think it is unfair to the committee.

Mr. HULL (Cook). Then you would prefer that this go over until next week.

Mr. LINDLY (Bond). I asked that it go over, and you voted for it now. I think it is a very foolish proposition to talk this over and when the other delegates get back here, then discuss it again.

Mr. BRENHOLT (Madison). I move that the Committee report progress and ask leave to sit again.

(President Woodward Presiding.)

Mr. WILSON (Cook). Your committee reports progress and asks leave to sit again.

Report adopted.

Mr. GREEN (Champaign). It seems to me before this Convention adjourns, there ought to be some record made of the fact that this Convention was unable to work today because of the fact that some of the delegates who had been most urgent in their demands for calling the roll and insisting on great devotion to this service were not here, and the Chairman of the Committee having this report in charge was laboring under great disadvantage by the fact his committee was not here to support him. As the record of this Convention stands now, some very distinguished delegates are in the position of making great effort to get this Convention to work, and I simply make these observations in order that the record may show that some of those who speak loudest about the diligence of the Convention, do not respond when the work is to be done, and this Convention cannot very well proceed with its business because there is such a small representation here. I think in view of this situation that the Convention ought not to try to consider these other reports, and I therefore move that the Convention adjourn until next Tuesday.

(Motion carried.)

Mr. HAMILL (Cook). The Committee on Rules and Procedure brought in yesterday morning a report advising that three committee reports be put upon the general orders and taken up in their order. There is, therefore, a calendar upon which this Convention can work, and each member of the Convention should assume that work upon that calendar will proceed just as fast as the Convention can work from day to day.

THE PRESIDENT. The Convention now stands adjourned until Tuesday, April 27, 1920, at ten o'clock.

Whereupon an adjournment was taken by the Convention until Tuesday, April 27, 1920, A. D. ten o'clock a. m.

TUESDAY, APRIL 27, 1920.**10:00 o'Clock A. M.**

The Convention convened pursuant to adjournment.

The President in the chair.

Prayer by the Chaplain, the Reverend E. G. Sandmeyer, pastor First Methodist Episcopal church, Charleston, Illinois.

THE PRESIDENT. The Journal of Thursday, April 22, 1920, was placed on the desks of the delegates at last Friday's session and is now subject to correction. There being no corrections proposed, the Journal of Thursday, April 22, 1920, will stand approved, and it is so ordered.

Whereupon the Convention proceeded upon the order of special orders of the day, reports of standing committees.

THE PRESIDENT. The Committee on Rules and Procedure submits a report.

COMMITTEE REPORT.

The Committee on Rules and Procedure reports that pursuant to the motion adopted at the session on April 22, 1920, requesting the Committee on Rules and Procedure to present such suggestions as may be determined upon regarding the co-relation of committee meetings, the Committee on Rules and Procedure is of opinion that it is neither feasible nor wise for the Convention to undertake to fix times of committee meetings. However, the Committee on Rules and Procedure has made an examination of the personnel of the respective committees with a view to suggesting a schedule of committee meetings which will avoid conflicts so far as may be. The Committee on Rules and Procedure now recommends to the chairmen of the following committees that so far as practicable they call their committee meetings in accordance with schedule given, for the week of April 27, 1920:

Tuesday:

Judicial	2:00 p. m.
County and Township.....	2:00 p. m.
Industrial Affairs.....	2:00 p. m.
Distinction	2:00 p. m.
Legislative	4:00 p. m.
Municipal	4:00 p. m.
Corporations	7:30 p. m.
Future Amendment.....	7:30 p. m.
Chicago and Cook County.....	7:30 p. m.

Wednesday:

Executive	2:00 p. m.
Miscellaneous Subjects.....	2:00 p. m.
Revenue	4:00 p. m.
Distinction	4:00 p. m.
Bill of Rights.....	7:30 p. m.
I. and R.....	7:30 p. m.
Agriculture	7:30 p. m.

Thursday:

Judicial	2:00 p. m.
Revenue	2:00 p. m.
County and Township.....	2:00 p. m.
Chicago	4:00 p. m.
Future Amendment	4:00 p. m.
Miscellaneous Subjects	4:00 p. m.
Agriculture	4:00 p. m.
Legislative	7:30 p. m.
Distinction	7:30 p. m.
Executive	7:30 p. m.
Municipal	7:30 p. m.

(Report adopted.)

Whereupon the Convention further proceeded upon the order of reports of select committees, introduction of proposals, motions and resolutions.

Mr. PADDOCK (Sangamon). I have a petition from seventy-five tax payers of Sangamon county in relation to the revenue article in the Constitution, and I would like to have it referred to the Committee on Revenue.

THE PRESIDENT. Without objection, the resolution will be referred to the Committee on Revenue.

Whereupon the Convention further proceeded upon the order of unfinished business, general orders of the day.

THE PRESIDENT. There stands on the general orders of the day the report of the Committee on Suffrage. The Convention will now resolve itself into the Committee of the Whole for the purpose of further considering the report of the Committee on Suffrage. The Chair designates Delegate Cruden, chairman of the Committee on Suffrage, to act as chairman of the Committee of the Whole.

(Chairman Cruden presiding.)

CHAIRMAN CRUDEN. Gentlemen, the Committee will be in order. I will ask the Secretary to read the minutes of the last session in which the Report of the Suffrage Committee was considered.

(Minutes read as requested by Secretary.)

Mr. WHITMAN (Boone). I have an amendment I desire to offer to section seven, and move its adoption. Amend Proposal 351 by striking out all of section seven in the printed proposal and insert in lieu thereof the following: "Section seven. No idiot or person adjudged insane, or person convicted of any infamous crime, shall be entitled the privilege of an elector unless restored to civil rights." That this Convention may know just exactly what change is made here, allow me to read section seven as it now stands: "The General Assembly shall pass laws excluding from the right of suffrage persons convicted of infamous crime." The section as amended will read as follows: "No idiot, or person adjudged insane, or person convicted of any infamous crime, shall be entitled to the privilege of an elector unless restored to civil rights." It may be a source of surprise to the members of this Convention to know that our present Constitution has no requirement which forbids the right of an insane person to vote. When I went to the Illinois Northern Hospital for the Insane as Superintendent, I will acknowledge that I had no knowledge of this matter. I found that some of the election sharks, especially from Cook county, knew a great deal more about this matter than I did. I found that about the time of the election, especially in Cook county, there was a vast amount of sickness in the families of the better class of male patients. I found that men would come out and ask a parole for their friends. Finally, I pinned one man down and asked him, "Why do you want your friend for a week?" He said, "I want him to vote." I said, "My dear man, you do not mean to tell me that an insane man can vote?" He said, "You bet your sweet life he can vote if I get him in Chicago where he lives." I said, "It doesn't seem to me that is right, and at the present time the only way I can do what I think is right is to see that you cannot get him into Chicago." The superintendent has supreme power as to whether he shall parole a patient or not, and I refused to parole these patients. I called up Judge Carter, who was then County Judge of Cook county, and asked him in

regard to this matter. He told me that this matter had not been brought to his attention, but that it was his impression that they had no right to vote, and he told me he would tell me in an hour. In an hour's time he called me up and he said, "Absolutely, there is no provision that would forbid their voting." He said "What are you going to do about it?" I said "I am not going to allow them to go to Chicago or any other place at election time." I called up another eminent judge and he gave me the same opinion. Under these circumstances, gentlemen of the Convention, I think you will agree with me it is time that this provision was made plain in our Constitution. I think that I have nothing more to say in regard to this matter, as I believe the matter is so plain that it needs no further argument, but only notice to be brought to your attention. I am informed by several members of the Committee on Suffrage that they are in favor of the substitution of this amendment, and I hope they will express themselves, as well as some of the eminent jurists here, who will tell you, I think, that what I have said in regard to the provisions of the Constitution is absolutely correct.

Mr. TRAEGER (Cook). I believe the argument just made is a very good one, and I for one, want to say that I think we should adopt the amendment.

Mr. HAMILL (Cook). I would like to ask a question of the mover. I observe in the form of the amendment no adjudication of idiosyncrasy is required, but the idiot is ipso facto excluded from the right of franchise.

Mr. WHITMAN (Boone). Yes.

Mr. HAMILL (Cook). I desire to know your views as a medical man, whether idiosyncrasy is necessarily so apparent that judges of election will be advised immediately of the fact a voter is an idiot.

Mr. WHITMAN (Boone). An idiot is a person born without mental capacity. He is a child in mind and body all his life. He has not mentality enough so that he would ever be able to vote. He has to be attended like a child so far as his habits of body and everything is concerned. There is a distinction, understand, between an idiot and a feeble-minded person. The idiot is a person, as Judge Hamill says, whose condition is such it is apparent to everybody, and he is in no condition to ever go to the polls, a true idiot.

Mr. MICHAL (Cook). There may be a little merit to the amendment as proposed by the delegate from Boone (Whitman) but I rather regard that the adoption of this amendment would seriously impair our standing among the states so far as the organic doctrines are concerned. I think there is some misapprehension about the great number of idiots that have been permitted to vote. I do not know how far that is applicable to Cook county. I do know they have a psychopathic hospital in Cook county and they have an institution down there, Dunning, on the outskirts of the city limits, but I think the remedy there is largely in the hands of the superintendent of those institutions, and I well suspect that they are law-abiding citizens and they realize the injustice of permitting men who are afflicted in that way to exercise the privileges of a voter, but I do not think that it is a proper subject to insert in our Constitution. I rather suspect it would make this great State the laughing stock not only of the United States, but of the entire world. I do not think there is enough danger from that source to make it obligatory upon this Convention to take cognizance of this affair. I have as yet failed to hear any expressions from the delegates regarding any such practices emanating from the institutions that are at Kankakee, Chester, Lincoln or other places in this State, but if it is confined, as my good friend from Boone says, principally to Cook county, I beg of you gentlemen not to cast this aspersion upon Cook county only. (Laughter.)

Mr. SIX (Pike). The matter of the right of a person non compos mentis to vote has been passed on in Supreme Court decisions found in volume 232 at page 54, and volume 135 at page 591. It is pointed out there that no person who is non compos mentis can vote, and I think this amendment is entirely out of place. The court at page 75 says: "there is in this State no express provision either in the Constitution or statute with reference to the question here under consideration," referring to the right of a person non compos mentis to vote, "and we think it is fair to assume from other decisions that

the vote of a person non compos mentis ought not to be received," and then it goes ahead and defines the method of testing the qualifications of a person to determine his capacity. I think there is no doubt that a person who is non compos mentis cannot vote under the laws of this State, regardless of the absence of that in our Constitution.

Mr. DUPUY (Cook). It would seem to me this proposed amendment is so obviously proper there is hardly two sides to the question. A similar provision to this is found in the Constitution of nearly every other state. For instance, I am going to read what the Constitution of Iowa says: "No idiot or insane person, or persons convicted of any infamous crime, shall be entitled to the privilege of an elector." The Constitution of Wisconsin says: "No person under guardianship, non compos mentis or insane, shall be qualified to vote at any election, nor shall any person convicted of treason or felony, be qualified to vote at any election unless restored to civil rights." It is perfectly evident from the wording of this proposed amendment it has been carefully prepared, that it meets the requirements of the case and I think instead of being the laughing stock of other states by putting this in our Constitution we would be the laughing stock if we left it out. Other states have seen fit to exclude the votes of idiots and people who are insane, an unfortunate class who are not competent to exercise the privilege of suffrage, and a good many states have excluded another class, namely, paupers, people maintained at the public's expense. We are giving paupers the privilege of taking part in elections, but this class of persons, unfortunately, are not able to exercise an intelligent participation in elections. It seems to me perfectly obvious that this provision should be inserted, and I hope that it will carry.

Mr. TODD (Peoria). Mr. Chairman, I am a member of the Suffrage Committee, and I want to say that two members introduced proposals along the line included in the amendment offered this morning. My recollection is that the Committee was practically of one opinion, that if there was any doubt about the present Constitution disqualifying men who were idiots, or women either, and insane persons from voting, that we should incorporate such provision in the Constitution, and those who had offered the proposals and the committee appeared to be satisfied that the present Constitution covered the question. Now, if there is any doubt, as appears to be, I think we should adopt this amendment as section seven in place of the section brought out by the committee, and I, as one of the committee, am willing to vote in favor of the amendment.

Mr. MILLS (Macon). Fortunately or unfortunately, I am one of the members who introduced a resolution covering this point, but when I was assured that the matter was covered by the Supreme Court, then I was willing to vote for the report as it came out, but since there is a question about it, I think we ought to settle it here, and I am in favor of the amendment.

CHAIRMAN CRUDEN Are there any further remarks on this question?

VOICES. Question, question.

(Amendment adopted.)

Mr. LINDLY (Bond). I move that the amendment just adopted be adopted as section seven of the Constitution.

(Motion carried.)

CHAIRMAN CRUDEN. The Secretary will please read section eight.

(Secretary reads section eight.)

Mr. LOHMAN (Cook). I move the adoption of the section as read, but in doing so, I want to make a few explanations. This is the proposal introduced by Delegate Trautmann. Delegate Trautmann appeared before the Suffrage Committee, and, to my mind, made quite an impression with his proposal, which has I think a number of very good features. Some have said it would do away with direct primaries, others a non-partisan election law. I do not know whether the people of Illinois are ready to give up direct primaries, but I think the non-partisan election law in Chicago has proved a failure. The section, if adopted, will reduce to a considerable extent the election expenses throughout the State. We have in Chicago from six to eight elections a year any number of registrations and special election primaries. The

cost of these run into the millions. I think perhaps the delegate who introduced the proposal in the first place should be given opportunity to explain the proposal in full.

Mr. TRAUTMANN (St. Clair). Mr. Chairman, gentlemen of the committee. As has been stated by the delegate from Cook (Lohman), this section is based upon Proposal 190 which I introduced. I have observed for a number of years elections in Illinois have been increasing instead of decreasing. It has been stated to me during the session of the Convention that this might be largely a legislative matter and should not be stated so strictly in the Constitution. Now, in one sense it is a legislative matter, but I find in looking over the various Constitutions, in the various States, that every one contains some provision with reference to election days, either in the article entitled "SUFFRAGE AND ELECTIONS" or else some other article. They state on what days the judges shall be elected, or what days the State officers shall be elected, and other provisions of that kind, so I say we find some provision in every Constitution in every state so far as I have read them, and I have read everyone of them with reference to this question. Now, it was my thought if we could put a provision in the Constitution that would limit the number of election days in such a way that the legislatures of the future could not pass so many laws that would fix different election days—for instance, I do not believe that there is an election day for the election of city judges in Illinois on the same day for any two cities in the State.

Now, we find during the month of April, 1920, in certain places in Illinois the voter is called upon to go to the polls on six different days. He is called upon to go to the polls for the election of village or city officers, and a different day for township officers, and then on the 13th of the month he was called upon to vote in a primary, and then in three different days he is called upon to attend elections of school officers. There are delegates here from northern Illinois who have told me that is their position, that they are called upon to vote for school directors on one day, trustees at another, members of the board of community high schools on another day. Now, it does not seem to me that is a very good situation in Illinois, especially with reference to the elections where they become expensive. That remark might not apply to school elections but it does to the others. While this section is long, I have tried to embody all the necessary features I thought were necessary in this proposal. I attempted in this proposal to fix the first Tuesday after the first Monday in November in each year as the election day, and provide that it be a holiday, and elections for officers should not be held on any other day. Then our people would be accustomed to the fact that this particular day in every year is election day. I do not in this proposal add a single officer to the present number of officers elected in the even numbered years in the fall when you elect your Federal, County and State officers. I simply by this proposal consolidate all the elections which are now held either in the spring of the year or in June, or sometime later, except election for judges and officers of that kind, and I put them in November of the odd years. Down in the southern half of the State we have found for a good many years that April is not a very good month to vote. It is not true of this year, because our season is late, but the farmers are very busy, so busy they do not even take the time to vote for township or school officers, which are to them their local officers, and they are very much interested in them. This puts them in the fall of the year, when no farmer is so busy but that he can take off a part of a day and vote, and that is the reason why I tried to transfer it from the spring to the fall, after making the consolidation.

Now, then, according to this proposal, in order to carry out that idea, it will be necessary for the Committee on Judicial Department to provide that judges, instead of being elected in June, 1921, and every so many years thereafter, should be elected in November, 1921, and every so many years thereafter, and that is the only additional provision that will have to be made in order to conform with this one.

It has been suggested to me that possibly this proposal would eliminate the primaries altogether. If it does, I personally would not shed very many tears, but I am not attempting to abolish primary elections entirely by this

provision. Personally, I am perfectly willing to meet that question fairly and squarely and vote on it. I do not want to attempt to do it by subterfuge or a so-called joker, and while I am talking on the subject of primary elections, permit me to say I am perfectly willing to vote for a provision to be placed in this Constitution providing that the General Assembly of the future shall not be permitted to pass any primary election law except for the selection of delegates. If you believe in a republican form of government or representative form of government, then you can very easily support the proposition that your delegates to the Convention that nominated your candidates, who are in that sense your representatives, should be elected by a primary vote, but I would not go any further than that. I am not attempting that, and if there is any question about it I am perfectly willing to amend this section in this respect. In line two this language is found, "elections shall not be held on any other day," and so on. Now, the question has been raised that courts have been holding that primaries are elections, and that if this provision stands you could not have any more primaries. I am perfectly willing to add these words after the word "elections," "that elections for officers shall not be held on any other day." That is not an election for officers. And the question has been raised that the people could not select their delegates to national conventions. Delegates have not been held to be officers, and if you put it in this amendment it would exclude them also. Or it would exclude the voting upon organization of drainage districts, park districts, or any other districts. As long as you did not elect officers you could hold those elections in your communities. If that amendment was made, it would necessitate the same amendment in line eight with reference to officers.

Now, the last two sentences commencing on line nine are a provision for the abolishing of special elections. We have too many in Illinois. Sometimes you have a special election—sometimes you have two special elections for judges of the superior court in the same year in the same circuit, and that is happening right now in northern Illinois. Under this provision, as you gentlemen know, if the vacancy is for less than one year, the governor or other appointing power fills the vacancy. I do not provide for appointments for a long term of years, but provide if a vacancy occurs more than ninety days before the next November election, then the vacancy shall be filled by the appointive power until the next November election of the same year. If the vacancy occurs less than ninety days before, at a time when it is impossible to get the names of the candidates on the ballot on account of lack of time, then I provide that vacancies shall be filled until the second November election. That will require another little amendment in line fourteen, "second succeeding November election."

I do not know just how many officers would have to be elected in the county of Cook, but I do know that outside of Cook county there is not a county in the State of Illinois that under this provision would have as long a ballot in November, 1921, as you are going to have in November, 1920, under your present arrangement. In my county this year we will have fifty-six names on the ballot next November; in some they will have more. Of course some of them elect State Senator this year, and we do not. It is not possible under this arrangement to get fifty-six officers together that are now elected in the spring of the year, or in special elections, but only occasionally you elect your judges, and then down State you only have three.

I want to make another suggestion, if this proposal is adopted, to the members of the Committee on Judicial Department, and that is this, that if you are going to elect your judges in the fall of the year, in the odd years, a provision should be placed in there providing that no more than one-third of the judges of Cook county shall be elected at any one time. You can have one-third elected in 1921, for six years, or term, one-third elected in 1923, and one-third elected in 1925. That will shorten your ballot considerably. With this provision it seems to me the ballot should not be any longer than it is now in the even numbered years, and I believe, gentlemen, that if the ordinary voter is qualified in 1920 to vote for presidential electors, United States Senators, Congressmen-at-Large, your Congressmen, your State offi-

cers, practically all your county officers, if he can do that he certainly is intelligent enough to next fall vote for the local officers and the judges of his court. There is no reason why a man is not qualified to vote for a school director on the same day he votes for supervisor from the same neighborhood. It would be far simpler to vote at that time for all these officers than it would be in the even numbered years to vote for what he is called upon to vote for now.

There is no argument with reference to the cost. Everybody will admit that elections are becoming expensive in Illinois, running up, I am told, to a couple of millions of dollars a year in the County of Cook on account of the numerous elections, primaries, registration days, for all of which you have to pay your judges, clerks and pay your polling places. This would be a great saving to the tax payers of each community, so it seems to me that viewed from every angle it is an advantage to adopt this article. Of course, there are some objections. It will no doubt abolish in Cook county the present scheme you have for the election of aldermen, but I do not believe it will abolish the primaries entirely with the exceptions I have made. It may do it, but I do not believe it will under the present provisions of the State Supreme Court. There will be some inconveniences, it is true, with reference to school elections if this is adopted. It seems to me, however, that it would be more convenient for a voter to take a day off and vote for all the officers, even if he finds it necessary to go to a second polling place on account of his vote having to be cast for a school officer at another poll, it would be more convenient to do that on the same day than to be compelled to take part of six days in the same month in order to cast his ballot. That is what he has to do now, while under this scheme he would only have to take part of one day a year. Furthermore, in parts of the State of Illinois under this scheme he will only have to go to one polling place. I trust, gentlemen, this section will be adopted.

Mr. GILBERT (Jefferson). Mr. Chairman, and delegates. The proposal of the delegate from St. Clair marks to my mind a radical departure from the plan heretofore followed and the latitude allowed the legislature of the State during the entire life of Illinois. The proposal he makes, for the life of the proposed Constitution, is a limitation upon the General Assembly requiring that elections be held once a year and no oftener, places a restriction, which of course is purely legislative, in the Constitution. I cannot believe, gentlemen of this Convention, that the wisdom of this Convention is sufficient to enable it to determine what is necessary or what may be needed, what may be required, what may be proper in the form of election, twenty-five, fifty or seventy-five years hence in the State of Illinois. How can we foresee, how can we foretell, and why should we forestall the General Assembly in providing from time to time for such elections of officers when the General Assembly or the people speaking through the General Assembly may see fit? I cannot agree that this proposal is sound. I will admit that it would perhaps be a saver to the taxpayers, I will admit it will be a saving to political organizations, both of which perhaps are desirable. I mean to say to political organizations in getting out the vote at each election, as they may occur, but should that be a consideration for any proposal to be adopted and inserted in the Illinois Constitution? I dislike that feature of elections as much as any delegate, and yet I am unwilling to support a proposal that is based upon the saving of expense to our public organizations.

Now, it is said that this will not lengthen the ballot. I have been unable to follow the distinguished delegate from St. Clair in that statement, that the adding of the names for the candidates for the judiciary from time to time as they may be elected, with the adding of the names of the school officers that are elected in each year, each spring in the country, with the adding of the township officers, some of whom are elected every year in the country with the adding of the city officers, the aldermen, some of whom are elected every year in the country—that the adding of those names on the regular ballot will not lengthen some of the ballots one year or another. I am not stopping to figure it out, but some of the years the ballots would have added to the regular State ticket the judiciary candidates, the school

ticket, the village ticket, the city ticket, and when you add those names your ballot must be lengthened to the extent of the number of names that are added.

I do not believe that this radical departure suggested by this proposal should be adopted by the Constitution. I do not believe it is workable. I do not believe it is feasible, practicable. I do not believe, gentlemen of the Convention, as one delegate, that we should place the election of judicial officers in the November election. I am opposed to changing the plan that has been followed immemorially in this State of electing your judiciary at a time when no other candidates are elected in June. I do not think that should be disturbed under any condition. What demand is there in the State of Illinois for this proposal? There may be some complaint of the number of elections, but is there any genuine, downright, deep-seated crying demand among the taxpayers of Illinois who pay the bills for the elections for the adopting of this proposal? You may have heard them; I have not. Now, if it is workable, if it is possible, I would be willing as one delegate to favor a proposal, although I doubt its wisdom, that would consolidate the spring elections on one day. I do not think it ought to be done, but if the Convention is bound to do something on the subject, let us not tie the General Assembly's hands any more or any further than we feel sure in our minds that they should be tied. If there is any doubt in the minds of the delegates as to the wisdom, as to the foresight, as to the best means of fifty years hence in the way of elections—than the rule of safety first, than the rule of being sure of our ground—no action should be taken, where there is any doubt in voting for this radical departure of this radical proposal.

Now, upon the question of whether or not the officers selected in the spring can be selected at the November election. I do not know whether they can be or not. I have been thinking the matter over, as no doubt the other delegates have. I live in Jefferson county, and yesterday afternoon I was discussing this very matter with a former member of the House as he got off at the little village where he lives, and we discussed the question of whether or not a one-day spring election could work successfully, and here is the condition you will find in that country precinct, the West Shiloh precinct. There is a little village with two or three wards all lying within one precinct. There are school districts, some of which lie partly in one precinct, and partly in another. I can see how the precinct can be changed so as to make the precinct dividing line perhaps a school district line, but the same school district is partly in one township and partly in another. What are you going to do there? And we have village offices that form a part of your precinct, which will mean two balloting places or precinct balloting places, or perhaps a school district and village balloting place in each one of the wards in the little village. You have not reduced your expenses to the public; you have saved the time of the voter, but you have not perhaps saved anything to the public in the way of expense. Perhaps a proposal to consolidate the spring elections on one day might be workable, might be worked out in some way, and while perhaps saving expense to the public, save some of the time of the voter. Now, at the proper time I have an amendment to offer to the proposal of the delegate from St. Clair (Trautmann) and if this is the proper time, so it may all be discussed together, I shall at this time, Mr. Chairman, offer a substitute for section eight proposed by the gentleman from St. Clair.

CHAIRMAN CRUDEN. Gentlemen of the Convention, Delegate Gilbert (Jefferson) offers a substitute for the proposal of Delegate Trautmann, and the Secretary will please read it.

THE SECRETARY (Reading). Inasmuch as some doubt exists as to the wisdom of preventing the General Assembly from in any circumstance providing for more than one election, and yet precluding even a special election, and consolidating on one or restricting all elections to Tuesday after the first Monday in November of each year, the following paragraph will be offered in lieu of and as a substitute for section eight of the report of the Committee on Suffrage: "The General Assembly shall by law pro-

vide that city, village, township, school district and other local officers shall be elected on the same day in all political subdivisions in which any of such officers are to be chosen."

Mr. SMITH (JoDavies). I am in favor of the proposal of the delegate from St. Clair and against the amendment of the delegate from Mt. Vernon. I think there are a great many big reasons why we should adopt the section as proposed by the delegate from St. Clair. I think the few reasons there are against the adoption of such an amendment can be very easily remedied. The three big reasons, it seems to me why we should adopt this plan—there are many others—first, the expense. We all know in many elections throughout the State, and especially down State in some of the small districts, there are nearly as many judges and clerks getting their six dollars per diem, as there are voters, and if calculated this expense is enormous throughout the State, as well as in the City of Chicago. It is needless to argue the matter on the ground of expense, and I attach much more importance to the matter of expense to the State than does the delegate from Mt. Vernon. I think this objection to our present form of election is indeed a serious one. Another big reason is the convenience of the public. It seems to me it needs no argument to say that all ought to be taken into consideration. We ought not to ask the electorate of this State to be continually going to the polls to cast their ballot. The other big reason, it seems to me, is it will enable us to facilitate getting out the vote.

As you all know, we entered into a discussion on which some very earnest and eloquent addresses were made with reference to coercing the electorate of Illinois on going to the polls. I think the gentlemen of this Convention and the electorate throughout the State are heartily in accord with the idea embodied in the proposal that precipitated the discussion in our last session, that the electorate of Illinois ought to vote. The reason it was voted down, and I think wisely so, was because of the impracticability of coercing the electorate of Illinois, but this proposal I am convinced would solve that problem. There would be no election but at which there would be a contest, and there would be matters of interest to the entire people, and it would be very easy to get a large percentage of the electorate to the polls. I might say, with apologies to the gentleman from Cook (Dawes) who spoke so eloquently here on forcing people to vote, that I believe this proposal would solve his problem, and potentize the electorate of Illinois, would coerce them, and I think it would diminish the number of self-determined political enuchs we now have to contend with. Gentlemen, I think this is one of the biggest things this Convention can do, and I speak as one who has been engaged for a good many years in partisan organizations interested in getting out the vote, and I hope this Convention will decide to adopt this section as proposed by the delegate from St. Clair.

Mr. MICHAL (Cook). I offer an amendment, and would like to have it read.

Mr. SUTHERLAND (Cook). Point of order. There is a substitute for the original section now pending before the Convention.

CHAIRMAN CRUDEN. The point of order is well taken.

Mr. MICHAL (Cook). I will withhold my amendment for the time being.

Mr. HAMILL (Cook). As a political innocent from Cook county, I desire some information from the politically experienced gentleman who has offered this section eight. I am aware that there is a disposition in this Convention to limit the representation of Cook county, but was not aware that there was a disposition to believe that Cook county was incapable of selecting its members of the General Assembly at the same time that the rest of the State chose theirs. I heard the distinguished gentleman from St. Clair disclaim any disposition to put jokers in his article, and I cannot believe he intends to joker on this, but I find by looking at section eight, "all elections for Federal, State, district (composed of one or more counties or of parts of two or more counties) and county officers shall be held in even numbered years; and all other elections shall be held in odd num-

bered years." We have nineteen senatorial districts in Cook county, no one of which is composed of one or more counties or parts of two or more counties. Members of the General Assembly are selected from those districts. Under this article as it now reads they would be selected in odd years. I take it that members of the General Assembly from other parts of the State under this article would be selected in even years. As a political innocent I rise to inquire why?

Mr. TRAUTMANN (St. Clair). Mr. Chairman and Gentlemen: I endeavored to make that plain the first time I spoke. If this section as it now reads is adopted, it is true if you make no other provision in your Constitution that your judges would be elected in even numbered years, and I explained to the chairman of the committee what I thought should be done.

Mr. HAMILL (Cook). I am talking about the General Assembly.

Mr. TRAUTMANN (St. Clair). You will find a provision in your Constitution as to when they will be elected, how long their terms of office shall be, and I thought perhaps that this Convention would in that article fix a time and date when they should be elected, and that is the reason I put in "except as hereinafter provided." It would be provided, as I said before, that the judges should be elected in November, 1921, instead of June. I made the further suggestion that only one-third should be elected at one time in Cook county. Now, if your Legislative Committee, in reporting that article, will state that the members of the General Assembly shall hold their office for two years and shall be elected in November in the even years, I maintain that that will work, with this provision "except as hereinafter provided." I had no intention of trying to elect the members of the General Assembly down State one day, and not having any in Cook county at all.

Mr. SUTHERLAND (Cook). This section eight perhaps would not be called legislative in the form it now stands, but amendment and a substitute has been suggested. At the proper time I have an amendment which I wish to offer to cover the non-partisan election law, which now exists with reference to the selection of aldermen in the City of Chicago. I find myself compelled to disagree to some extent with the distinguished delegate from Cook who thought that it had proved a failure. It has already saved the City of Chicago considerable election expense, and whether or not it is a failure it seems to me it has run too short a course for this Convention to finally determine, and this provision as it stands amended would preclude any such form of election as we have under the non-partisan election law for aldermen, whereby if one candidate receives at the election a majority of all the votes cast, he becomes the official for the ensuing term, but if no candidate receives such a majority, then a supplemental election is necessary, and such supplemental election would be impossible under section eight as it stands.

Now, I take it, that other delegates will think of other exceptions that will have to be made to this article, and before we get through those exceptions will make it decidedly legislative in character, and to that I am very much opposed, and I assume that a large majority of the Convention will be opposed. Now, no one is more in favor than I am of reducing election expense, or of having if possible but one election day a year, but it occurs to me, Mr. Chairman and gentlemen, that the delegate from Jefferson (Gilbert) has well pointed out that we are in danger of so tying up the General Assembly as to greatly embarrass the election machinery and the voters of the State. The real reason, as the delegate from St. Clair has stated, that the Constitution now provides various days for the election of constitutional officers and my suggestion for the elimination of that trouble is that we drop this section, and in each section that provides a time for the election of a State officer or local officer, that it contain the phrase that the date shall stand unless otherwise provided by law, and leave the whole matter in the hands of the General Assembly. We are well aware that the gentlemen of the General Assembly are feeling great pressure in this direction. The burden of elections is heavy and something must be

done to meet that increasing load, but it seems to me that elasticity must be provided and discretion must be left with the General Assembly, and if that is not done we are in grave danger of running into serious trouble.

Mr. CORLETT (Will). Section eight, without any question whatever, nullifies every form of primary law that is upon the statute books and makes it impossible for the legislature ever to enact a primary law of any description. There are other things in connection with this section that I wish to point out very briefly. A great many of the principal cities of Illinois outside of Chicago have what is known as the commission form of government. It is utterly impossible to elect commissioners under the commission form of government without the assistance of the direct primary law. Again, Mr. Chairman, under commission form of government, there is provided a recall of commissioners, and further providing for the election of commissioners by special election to take the place of those recalled. If you cannot have any special election how are you going to elect officers to take the places of those who may be recalled? Furthermore, gentlemen, under the commission form of government the referendum applies to the acts of the commission. Is it to the interest of the people of Illinois to provide that the act of your city commissioners can be suspended from operation for a period of one year or possibly two years before that matter can be submitted to the people and be finally disposed of? It would nullify the commission form of government and it would substitute absolutely nothing in its place. Again, gentlemen, there are some things that I do not believe ought to become the sport and prey of partisan politics, and among those I will mention the election of our school officers. That is an election that should be held entirely without influence by the considerations of any other election that we hold.

Again, I do not believe that the judges should be elected at any election where other officers are elected. The framers of the Constitution of 1870 were very careful to provide for the election of judges at a time when the matter of political consideration was at its lowest ebb. They did not believe it was wise to involve the election of judges with the election of other candidates for office of a more partisan nature, and in this connection let me say in the judicial district in which I live, which is probably fifteen or sixteen thousand Republican, we have maintained a non-partisan judiciary for almost twenty years, electing two Republicans and one Democrat, and we believe in that district, gentlemen, that the people are better satisfied with the method that has been pursued than they would be if the judges were elected upon a partisan basis. If the election of judges is to be involved with the election of other officers, there can be no question but what it would be settled upon a partisan basis entirely. I am told, although I do not know, that there are other judicial districts in the State of Illinois where the same system has prevailed for several years that prevails in the district in which I live.

It is admitted that this section will make impossible a non-partisan election of aldermen in the City of Chicago. Whether it is desirable to select aldermen in Chicago I do not know, but, gentlemen of the Convention, it does seem to be unwise to write into this Constitution a legislative proposition of this character which will during the life of the Constitution tie the hands of the legislature. I do not know at this time how or to what extent it will tie the hands of the legislature, but I do know of some things, a few of which I have pointed out, and I think it would be a great mistake for this Constitution to provide that there should be in no case a special election, and that all officers be elected at an election held each year. I cannot believe we should give the legislature directions in this matter. It is a matter that is purely legislative and it has no place, as I view it, in a Constitution. There is, I will admit, some sentiment in this State against the direct primary law. That means that the men who object to the primary want to go back to the old system of selecting candidates. To my mind it is more important to safeguard the selection of candidates for office than it is to provide for the general election under the regulations and protection of the law. First, it is the fountain from which we draw our offi-

cial life, and if this is not of importance enough to be safeguarded by regulation of law then it does not make any particular difference what we do after that time.

Now, I will admit that what I said in regard to the selection of judges has not the force at this time that it would have had fifty years ago, because the legislature of Illinois has practically turned over to the political organizations of Illinois the selection of the judiciary, but gentlemen of the Convention, I have no idea that that provision is going to stand upon the statute books of Illinois. I have no idea that even a large percentage of the people of Illinois knew the other day when they elected their committeemen that the committeemen were empowered practically to select the judiciary of Illinois. I am looking forward to better days in regard to the selection of the nominees for the judiciary, and I hope that the legislature in its wisdom will repeal the provisions whereby that vast and unwarranted power has been placed in the hands of the partisan political organizations of the State of Illinois. I thank you. (Applause.)

Mr. DOVE (Shelby). I find myself in hearty accord with the purpose that is sought to be derived in adopting section eight, and I trust the substitute that has been offered will not be adopted, so that section eight may be properly amended to meet many of the objections that have been advanced against it. I, too, am not in favor of abolishing the primary, and at the proper time I believe that section eight can be amended by inserting after the word "holiday" in the second line such a provision as this: "Other than judiciary, school and such primary elections as may be provided by law," and then following "elections other than these mentioned shall not be held upon any other day." To my mind such an amendment as this would correct many of the objections that have been advanced against section eight, and while it is not a proper time now to offer this amendment, I simply rise to make these few remarks in order that the substitute would not be adopted, and that the Convention may have an opportunity to amend section eight as reported by the committee, and their amendment should be provided in the next to the last line as pointed out by the delegate from St. Clair. There is no question but that there are too many and too frequent elections, and I think, as has been stated, the advantages of the amendment discussed by the committee last week with reference to compulsory voting will largely be made unnecessary if we can consolidate these elections, but not at the same time put it without the power of the legislature to meet conditions as they might arise within the next thirty, forty or fifty years, and with these provisions providing for separate judicial and school elections, providing that the legislature may provide direct primaries, I think many of the objections that have been advanced against section eight will be overcome.

Mr. SIX (Pike). As a member of the Suffrage Committee, let me say that most of the objections that have been made to section eight were made before the committee. The committee realized that section eight was not all it ought to be, but it represented the most that the delegate who introduced the original proposal stood for. The committee saw the advantage of the argument which that delegate could and would make before this Convention and reported the proposal as printed. The objections made before the committee and made here are that section eight is legislative in character, that it places a restriction upon the legislature, that it is experimental in character and defeats the non-partisan principle in certain elections which have been recognized under the Constitution of 1870. With regard to the proposition being legislative in character, that is true to a certain extent. The answer, so far as it may be an answer, is that the legislature has tended not to restrict elections but to increase them, so that to depend upon the legislature entirely was to create additional elections instead of reducing them. With regard to placing restrictions upon the legislature, that can be met by an amendment of some kind, such as Pennsylvania has for instance: "that the General Assembly may by law fix a different date," and so forth, so we can remedy those two things by opening up by amendment this section eight.

With regard to this proposition being experimental, let me say that the Constitution of the State of Pennsylvania by amendment in 1909 provides for two election days; one a general election to be held bi-ennially on the Tuesday next following the first Monday in November in each even numbered year, and the second a municipal election held on the Tuesday next following the first Monday in November of each odd numbered year, more restrictions than the proposal puts upon the General Assembly of the State of Illinois. I have a letter of interrogation addressed to the Reference Bureau of the State of Pennsylvania, and I have the answer, which is in part "this system of elections so far as this State is concerned seems to meet with general satisfaction." There they have no non-partisan principle of election. It is true that judges are elected in the State of Pennsylvania at large at either the general or municipal elections, but that may be done under proposal eight.

New York has no constitutional restriction upon its legislature, but the legislature has provided for the system of elections based upon the idea by statute, which is "a general election shall be held annually on the Tuesday next succeeding the first Monday in November." So far as I can learn, New York is not dissatisfied with its system. It is true the legislature is gradually opening up and making it again somewhat as we have in Illinois, indicating that some restriction in the Constitution, while it ought not to be air-tight, is necessary if we are going to observe the principle which section eight tends to give to the State. It occurs to me before amendments are made defeating the principle of section eight, that this section should be thoroughly discussed and a solution of the question made upon those principles which have been enunciated by the delegate from St. Clair.

Mr. DAVIS (Cook). The discussion had has been interesting, but it has also been ineffective and unproductive of results because of the parliamentary situation. Section eight of the proposed article is under discussion. The gentleman from Mt. Vernon offered a substitute for the whole section; no discussion has been had upon the substitute; the discussion has been had upon the original section as proposed. A number of delegates who have spoken said that they had amendments, but they refrained from offering them because the substitute section was pending, which was perfectly proper. We can get at the roots of the situation, we can get at some degree of action if we put ourselves in a proper parliamentary position, and while under our rules of procedure when the Committee of the Whole is in session the previous question cannot be moved, I hope I will be in order with a motion that we take a vote on the substitute section proposed by the gentleman from Mt. Vernon.

Mr. GILBERT (Jefferson). If the delegate prefers, in order to clear the atmosphere for the amendment to section eight, I will withdraw my substitute for the present and re-offer it after the amendments are disposed of.

Mr. DAVIS (Cook). In my judgment it will help the situation materially.

CHAIRMAN CRUDEN. Is there any objection to the delegate withdrawing his substitute?

Mr. GORMAN (Cook). If he is going to renew it later, I think I will offer an objection now, that inasmuch as we have it before the Convention and it has been partially discussed, we are advised of its contents and we ought to dispose of it at this time.

Mr. GILBERT (Jefferson). I think I have the right to withdraw this substitute. I may offer it again or I may not.

Mr. DAVIS (Cook). I move consent be given to the delegate from Mt. Vernon to withdraw his substitute.

Mr. LINDLY (Bond). A motion of that character is entirely out of order. Unanimous consent has been asked and it has not been given, and he must have unanimous consent before he can withdraw it. A motion to close the debate would be proper.

CHAIRMAN CRUDEN. The question may be easily disposed of by bringing it to a direct vote.

Mr. GILBERT (Jefferson). If the Convention is unwilling to allow the withdrawal of the substitute offered by me at this time, I want to make a few remarks before the vote is taken on that question. I think the fairer way and the practical way would be the withdrawal of the substitute and the dealing with the other matters. I want to say further, gentlemen, before the vote is taken upon this substitute, that the arguments which have already been presented to this Convention by the delegates who have spoken in opposition to it and the adoption of section eight as proposed by the committee, do not apply to the provisions of the substitute. In other words, the objections that have been raised do not apply to the substitute. I believe that the spring elections and other local elections could very well be consolidated and held at one time, at such a time as the legislature might choose, and I believe the substitute that I have offered will dispose of three or four, practically all these elections about which complaint is made. I have not heard any complaint made of the judicial elections being held in June. I have not heard any complaint of the elections in November. The only complaints I have heard relate and apply to the elections that come in the spring-time, our township, village, city, school and local elections. This substitute, as I have said, is legislative, and this ties the hands of the General Assembly to a certain extent, yet I have thought we could perhaps safely go that far. I do not believe the Constitutional Convention should take upon itself the right to force the people in years to come to have but one election day. I do not believe it is for us to do that. I do not believe we should go into the realm of legislation to that extent. I believe the substitute I have offered is practical, I believe it meets the demand, and I respectfully submit, gentlemen of the Convention, that the substitute I have offered should be adopted.

Mr. DAVIS (Cook). I move at this time that the debate be closed, and a vote be taken on the substitute offered by the delegate from Jefferson.

CHAIRMAN CRUDEN. The question is, that the debate be closed and vote be taken on the substitute of Delegate Gilbert.

(Motion prevails, 61 to 6.)

CHAIRMAN CRUDEN. The question now is upon the substitute offered by Delegate Gilbert.

Mr. WHITMAN (Boone). Please read it.

THE SECRETARY (reading). "The General Assembly shall by law provide that city, village, township, school, district and other local officers shall be elected on the same day in all political subdivisions in which any of said officers are to be chosen."

(Substitute lost.)

Mr. REVELL (Cook). I understand now the question reverts to section eight, the proposal of the gentleman from St. Clair.

CHAIRMAN CRUDEN. Yes.

Mr. REVELL (Cook). On that question, Mr. Chairman, I desire to say that I have heard a good deal today in the debate upon this matter regarding the fact that there is very little complaint regarding these various elections in the year. I do not think that those who claim that can keep their ears very close to the ground. There is hardly a week in the year that I do not hear complaints regarding the large number of elections, and the indirect complaint we can hear every five minutes every day during the year, and that indirect complaint I will say refers to the high cost of living. You ask me how I can bring that in. I will say that the waste of energy and of money going on in the United States as a government, and in the States, cities and towns and on the farms is tremendous, and we who touch basic principles or who touch law in any activity of government, must know or soon give attention to this matter. How does that refer itself to this question? If you have a half dozen or eight or nine elections during the year, doesn't it take money, as was stated, to provide the expenses of the election? Doesn't it take the voters from their various activities, from their labor, to go to the polls? Doesn't it require that the polls be manned, and in these days when there is hardly seventy-five to eighty men for every hundred jobs, isn't that a most important matter?

When I went to the election place in our small precinct, in the twenty-first ward recently in the City of Chicago (and there are two thousand four hundred precincts in the City of Chicago), what did I find at that precinct? And I remained long enough to analyze it closely, for it is germane to the question I am talking about, and which should attract your serious attention? I found from six to ten persons in the little polling place; in addition there was a police officer; outside I noticed men with badges of various kinds, men and women, and there were sixteen men and women outside of the polling place in that one precinct; in each of nearly twenty-five hundred precincts, there were something like twenty-five persons interested and brought there all day long for the purpose of receiving that vote.

When we have elections in April, May or June—and we listened here the other day all day long regarding the necessity of men to go to the polls to exercise the right of suffrage which is theirs, how important it was, how great a slacker a man is, to a large extent, or a woman either, who does not exercise the right of suffrage, the most sacred right we have in this country—when we have these voting days in the months I have referred to, and you take from the farm the farmer, and if he is a patriotic farmer he will want his help to go also, therefore, you take the help as well, and now the women also vote and if the farmer is a patriotic man he is going to ask the help, both men and women, around his farm to go with him to the polls to vote; there is a day taken off that farm for all to exercise the right. Do you mean to tell me that that day is not wasted? Is there any more meaning in it than that these people want to vote? It has this meaning in it, that the people not working that day increase the cost of what they produce, and it is not only this waste of money, increased cost of what they are producing. This is only one phase of the wasting of the money and energy we are talking about which is going on all over the country. And unless we try to meet these questions as they come up, in the nation in Washington, as it affects them, in the cities as it affects them, these questions are never going to be seriously met. If it is going to be met merely by glittering generalities that no one is complaining, because you cannot see the direct complaint at that moment, gentlemen, these vast economies that may be made and will affect the comfort and happiness and saving of money of the people of this State will not be touched. We must find a way to reduce this large number of elections in the State of Illinois.

The only thing that has touched me in the debate today at all, is the one question, is it workable, is it practicable, and I believe there is not a man within the hearing of my voice will not at once admit it is workable, that it can be met by the insertion of a few words, or another amendment, if you please, and if it can be made workable that it should be done. It means one day every year, not a day every other year, and it might be done by having two polls, as was suggested, in the same forenoon, or one in the morning and one in the afternoon. It is the vast conservation of energy and money that I am thinking about, gentlemen, and it seems to me that too many elections in a State and in a nation reduces the dignity of an election in the eyes of a people; they pay less attention to them, and if a person goes to an election one month, and there is another one the succeeding month, he is very likely to say, "I attended the one last month, let the others attend to this one." I am very much in favor of the proposition introduced by the delegate from St. Clair. I believe that the proposition can be amended by the addition of a few words, or changed so as to cover some of the objections that we have listened here today, and I believe, gentlemen, that we can do no better service to the State of Illinois, sitting as a body here in Springfield, than we can by providing for one day a year, and that a holiday, for the purpose of attending to those things which mean the protection and security of the franchise interests of this State. I thank you, gentlemen. (Applause.)

Mr. MICHAL (Cook). Mr. Chairman, I sent to the desk an amendment to section eight, which I will ask to have read.

THE CLERK (reading). "Amend section eight by adding the following: 'The General Assembly shall pass no law for a primary election except for the selection of delegates to nominating conventions.'"

Mr. MICHAL (Cook). Mr. Chairman, I do not think that requires a great deal to be said in its favor. I think since the direct primary act has been in force, since 1908, we have had ample opportunity to study the efficacy of that system. I think in the whole and in the main it has proved to be not what its sponsors had deemed it would accomplish, but it has rather been a detriment to popular government. I am willing to pin my faith to the political officers and in the hands of the representatives of the men who are in control of party politics. I think the day of reform, to go back to the principles of the old line of politics, has come. I think we have tried this system for twenty years, and I think it time we got back to solid ground. I do not think the direct primary act has resulted in any good to this community at all. I think it has been in a majority of instances a deterrent to that degree of competition which existed when the leading parties in a nominating convention selected the men and battled out the issues before the people. I think that under the old system the political battles were fought with a great deal more interest than prevails under the present conditions, and I earnestly urge upon this Convention that they adopt this amendment of mine.

Mr. GEE (Lawrence). I offer the following amendment: Add at the end of section eight, "providing that nothing herein shall interfere with the law now provided or that might hereafter be provided by the General Assembly for primary elections." I realize there is quite a difference of opinion as to the success of the primary election law, and I have lived long enough to see both systems, and I am convinced that the primary election law is an improvement. Down in the district I represent so far as I come in contact with the people, I do not hear anybody objecting seriously to allowing the people to go out to the primary and choose the men they want to vote for. I have heard the objection that it is a great expense to the candidate. I doubt very seriously whether the matter of expense is any greater than it was in the old system of buying influence in the convention. In the old time the great fight was to get the chairman of the convention, and once you got him you had the whole thing; all you had to do was to railroad through the committee to select the delegates. Not very many people had a voice and not very many people became concerned with the convention, except that it brought out a lot of curiosity seekers to see the battle royal between the forces. I have known neighbors to get so mad that it took six months to get over it.

We pride ourselves on our citizenship, and I have been trying to get provisions making that citizenship, so far as election matters are concerned, better and that will make the people do their duty. Now, let us leave the electorate to go to the ballot box and express its opinion, and let the voice of the people rule. I know that we will wipe out a good many fellows' business hunting up fellows to rule the thing, but you will have less dissatisfaction, and I want to ask you seriously under the primary election system, haven't we had less sore spots, regardless of your party organization, less bitterness to carry into the final contest, than we used to have in the old way? I do not think, men, we ought to look backwards. I believe we should look forwards. I think we ought to give to every man an opportunity to go out and choose the men he wants to be the standard bearer of the party to which he belongs. I think we can trust the people. I am in favor of the primary election law, and I do not want it wiped out by section eight. I am offering this amendment to safeguard what I think is the most progressive thing that has been done in the history of the State toward the matter of treating candidates to be voted for on election. (Applause.)

Mr. SUTHERLAND (Cook). I favor heartily the substitute offered by the delegate from Lawrence (Gee), although unlike him, I hold no brief for the direct primary law and disagree with him as to its desirability. I was against the direct primary law when it was enacted and the things I believed evil of it have come true since, but Mr. Chairman, when you attempt to say that the General Assembly shall enact no primary law, and thereby under the new Constitution repeal the direct primary law, we are

getting directly into the legislative field, and I do not want, for one, to have my record show I am in favor of such departure. I think we should stick to fundamentals and let the legislature cure its own evils, especially such a matter as this, because no doubt there were many evils in the old Convention system which were not cured except by this other evil, and possibly a greater evil than the direct primary. Mr. Chairman, it seems to me we have no business interfering with the legislature in this matter and I therefore hope that the substitute will be adopted.

CHAIRMAN CRUDEN. The question is on the adoption of the substitute offered by Delegate Gee, of Lawrence county.

Mr. HULL (Cook). I am going to make a motion that this whole section be re-referred to the Committee on Suffrage.

Mr. LINDLY (Bond). A motion to refer from the Committee of the Whole to a committee is out of order. The only motion that could be made would be to recommend to the Convention that it be re-referred.

Mr. HULL (Cook). Perhaps I did not express myself in just the proper language. I think there is no question that there has grown up a multiplicity of elections that has created a serious situation, and it is desired thereby to remedy it, if possible. I have my doubts myself whether an attempt ought to be made to remedy it in the Constitution, whether it ought not still to be left to the legislature. I have heard the arguments made why it cannot be left to the legislature. That there can be no relief expected from the legislature. I have in mind for two sessions of the legislature the matter has been discussed, and that bills have been presented at two sessions of the legislature for the purpose of consolidating elections. Those bills have not yet succeeded in passing, but I believe that the agitation will be kept up, and if the matter is left to the legislature it will be ultimately worked out in the legislature by legislative methods.

I would be inclined to leave it all to the legislature, and yet if some provision can be inserted in the Constitution that will not tie down for all time, that will not make it impossible for the legislature to adopt a law or change of public opinion, if some provision can be worked out, I might be inclined to go along with it. I do not believe that the proposal that is now inserted in this suffrage article is the right proposal. I doubt very much whether it can be worked out in this Committee of the Whole; it seems to me it can be worked out in the sub-committee of the Suffrage Committee, and I am inclined to believe it is a mistake to attempt to apply this proposal to primary elections. We hear objections with reference to judicial elections and school elections; we have heard objections with reference to elections in the City of Chicago for aldermen. I do not know whether all those objections can be met in this section by the Committee on Suffrage, but I think the attempt should be made to meet the objections in some way. For that reason, Mr. Chairman, I move that it is the sense of this Committee of the Whole that this particular section of this particular article be referred to the Committee on Suffrage.

CHAIRMAN CRUDEN. Together with the amendments and substitute?

Mr. HULL (Cook). With pending amendments, yes. I do not think they would need to be incorporated in the record of the Committee of the Whole; the Suffrage Committee could hear all the amendments without incorporating them in the record of the Committee of the Whole.

Mr. MILLER (Cook). It seems to me that this motion of the delegate from Cook (Hull) should be adopted. It is evident that many of the members here are not satisfied with section eight as drawn and I doubt if the committee is now, after hearing all that has been said, and yet it seems to me too bad that something should not be put into the Constitution covering this subject. It is plain that the swiftest and surest way of destroying real popular government is to load the franchise. It may be loaded by too many elections; it may be loaded by having four hundred thirty-five names on a single ballot as we sometimes have in Chicago; it may be loaded by requiring the voter to vote frequently upon questions of public policy or initiative and referendum. We have now the spectacle of a judicial election, which all admit is one of the most important elections, where only twenty-two

per cent go to the polls. Something ought to be done about that. That is not a success, of course, when you have an election with only twenty-two per cent voting, and that is not an extraordinary thing. It seems to me something ought to be done about the matter and I therefore support the motion, that the Convention re-refer this to the committee.

(Report adopted.)

Mr. DUNLAP (Champaign). I move the Committee of the Whole do now rise, report progress and the recommendation made by the Committee of the Whole as to section eight, and ask leave to sit again.

(Motion prevailed.)

(President Woodward presiding.)

Mr. CRUDEN (Cook). Mr. Chairman, the Committee of the Whole, having under consideration Proposal No. 351 wishes to report progress, and asks leave to sit again.

(Report adopted.)

THE PRESIDENT. There being no further business to come before the Convention, a motion to adjourn will be in order.

Mr. CORCORAN (Cook). I move we now adjourn.

(Motion carried.)

THE PRESIDENT. The Convention stands adjourned until Wednesday, April 28, 1920, ten o'clock a. m.

Whereupon an adjournment was taken by the Convention to Wednesday, April 28, 1920, ten o'clock a. m.

WEDNESDAY, APRIL 28, 1920.**10:00 o'Clock A. M.**

The Convention met pursuant to adjournment.

The President in the chair.

Prayer by the Chaplain.

THE PRESIDENT. The Journal of Friday, April 23, 1920, was placed on the desks of the delegates on yesterday and is now subject to correction. There being no corrections proposed, the Journal of Friday, April 23, 1920, will stand approved, and it is so ordered.

Whereupon the Convention proceeded upon the order of special orders of the day, reports of standing committees.

THE PRESIDENT. The Committee on Rules and Procedure submits a report.

COMMITTEE REPORT.

Your Committee on Rules and Procedure in furtherance of the action of this Convention diligently to pursue the consideration of committee reports in Committee of the Whole, recommends that the report of the Committee on Education be considered immediately upon the conclusion of the debate on the pending report of the Committee on Public Works and Improvements, and that the sessions of the Convention on Thursday and Friday of this week be devoted to that work.

Mr. SHANAHAN (Cook). The purpose of the rules submitted by the Committee on Rules is to give advance information to the members of the Convention that the Convention will be in session on Thursday and Friday of this week. The idea of the Committee on Rules is to have enough work on the calendar so that the Convention may continue in session on Tuesday, Wednesday, Thursday and Friday of each week from now henceforth, and I move the adoption of the report of the Committee on Rules.

(Report adopted.)

Whereupon the Convention further proceeded upon the order of reports of select committees, introduction of proposals, first and second reading of proposals, motions and resolutions, unfinished business, general orders of the day.

THE PRESIDENT. Under general orders of the day stands the report of the Committee on Public Works and Improvements, and two reports from the Committee on Miscellaneous Affairs. The Convention therefore is now ready to resolve itself into the Committee of the Whole for the purpose of hearing first from the Committee on Public Works and Improvements. As chairman of the Committee of the Whole, the Chair will designate Delegate Wilson of Cook county. (Applause.)

(Chairman Wilson presiding.)

CHAIRMAN WILSON. The Committee will please come to order. The Secretary will please read the record of last Friday.

(Clerk reads record as requested.)

Mr. LINDLY (Bond). I would like, Mr. Chairman, that we should consider this by sections without any further statement, except as to section one. I would like to have the first section read, and I would like to be heard on that section.

THE SECRETARY. (Reading). "Resolved, that the following shall become a part of the Constitution of Illinois: Neither the Illinois and Michigan Canal, nor other canal or waterway, now owned or hereafter acquired

by the State, shall be sold, leased or otherwise disposed of until the specific proposition for the sale, lease or disposition thereof shall first have been submitted to a vote of the people of the State at a general election and approved by a majority of the votes polled at such election."

Mr. LINDLY (Bond). On Friday we had a statement of this proposition and without taking up the time of the Convention, because I think it has been taken enough, I would just state to those who were not present Friday morning that the first section of this proposal is the same as the Constitution of 1870 in regard to the selling of the Illinois and Michigan Canal, with the exception that we add "other canals or waterways," because the State is now engaged in the construction of another waterway. At the end of the section of the Constitution of 1870 it said "the General Assembly shall never loan the credit of the State or make appropriations from the treasury thereof in aid of railroads and canals." The State has now invested twenty million dollars or more in the new waterway, with water power sites for the development of energy and will have to take care of that waterway and the water power sites for the creation of energy, and we therefore thought it best to strike out and leave with the legislature to pass such laws with regard to that as is necessary. It was asked of me here whether they could issue bonds for any construction, for completion of anything of that kind. Yes, they could, but they have to be voted upon. The only difference in voting on the bonds under this section and voting under the amendment to the Constitution is, one had to be an amendment to the Constitution and the other submitted. As far as the railroads are concerned, we thought that ought to be taken out of this, because this has reference to canals and waterways, and that is covered by section twenty-five, article four, and if it is not we will take that question up with the Legislative Committee and put a line there prohibiting the voting of money for the aid of any railroads. I think this, Mr. Chairman, covers this section. I understand Mr. Hull has an amendment to offer to this section. The purpose of the committee, gentlemen of the Convention, is to throw as many safeguards around this subject as is possible to do. I know that this is the only article in our Constitution where we have to deal with income to the State, and therefore it ought to be protected. With the amendment Mr. Hull desires to offer, I think we are in perfect accord.

Mr. HULL (Cook). Mr. Chairman, I offer an amendment. Insert after the words "disposed of" in line four of the printed proposal the words "nor shall any part of such canal or waterway, or any water power sites appurtenant thereto be sold."

Mr. LINDLY (Bond). Mr. Chairman, on behalf of the committee, I desire to accept this amendment, because I think it strengthens the section.

CHAIRMAN WILSON. The question is on the amendment of the delegate from Cook (Hull.)

VOICES. Question, question.

(Amendment carried.)

Mr. DUNLAP (Champaign). I desire, Mr. Chairman, to offer the following amendment: Amend proposal 354 as printed by inserting after the word "development" in line eight the words "nor to the" and also by striking out the word "or" in line nine of said printed proposal and by inserting in lieu thereof the words "nor to the sale or lease"—so that it would read this way, "that this restriction shall not apply to the lease of water or sites for power development, nor to the sale or lease of energy developed from water powers, nor to the sale or lease of lands and lots not needed in connection with navigation, power development, terminals, docks, or other appurtenant works, but the rental specified in any such lease shall be subject to revaluation each ten years of the term created."

CHAIRMAN WILSON. The question is on the adoption of the amendment.

VOICES. Question, question.

(Amendment carried.)

Mr. LINDLY (Bond). Just one word on this proposition. Friday I talked some on this, and I know that this is largely legislative, this portion

of this section, but there are some things in the Constitution that are legislative that we must adopt. As I said a moment ago this was in here to safeguard. For instance, in the constitutional amendment that was adopted by the people when they voted the twenty million dollar bond issue for the construction of the waterway, when that resolution was before the House and Senate, it became necessary for us to add a revaluation clause in that resolution before the House or the Senate was willing to vote for it, or its submission. When the legislature in 1919 wrote the law authorizing the issuance of these bonds for the construction of this canal they placed in the law this revaluation of the leases, if any were made, and some have suggested to us, some of the delegates, that that being statutory ought to be left entirely out of this section. Others have said if it had not been for that being in the Constitution, the legislature would not have put the revaluation clause in, so we thought it best to put that in this section. There was some discussion Friday morning on this proposition. Let me state this as the committee understands it. It provides, after saying in the other portion of the section that the Illinois canal, or other canal or waterway, or any power sites, or any portion thereof, cannot be sold without the vote of the people, and we have made it a majority of all the votes cast at that election, and we want to reserve the right to lease, and so forth, "that this restriction shall not apply to the lease of water or sites nor the water but you can lease it, that is the legislature can order it leased, "nor to the sale or lease of energy developed from water powers." They can sell that or lease it, and there is a question whether you can sell energy or not—"nor the sale or lease." Here is where the trouble was Friday a little bit; "nor the sale or lease of lands and lots not needed in connection with navigation, power development, terminals, docks or other appurtenant work;" none of the lands nor lots can be sold that would be needed for navigation, or power development, and all these other things, but if they are not needed they might be sold under this section, and it was thought proper to put that here, because you would not want to require a vote of the people for the sale of some lots if that did not amount to very much, and for that reason we have put that in here. The gentleman from LaSalle (Scanlan) who is more familiar with these lots not connected with the canal than I am, is here, and I will ask him to take the floor on this proposition.

Mr. SCANLAN (LaSalle). As to the sale or lease of lands and lots not needed in connection with navigation; the Illinois and Michigan Canal in years past secured certain lots and tracts of land not used as a part of the navigation at that time, but for purposes that they thought would be necessary in the development of the canal. These lots and lands are not very extensive, and some of them are three or four or five blocks away from the canal. For instance, in Ottawa, they have some lots where they were supposed in the early days to repair the barges, boats, and so forth. For twenty-five or thirty years the ground has not been used and the buildings that were constructed are practically ruined. And in many other places along the canal you will find lots and tracts they had reserved away back from the canal for purposes in connection with the canal. The Illinois and Michigan Canal for many years, as you all know, has not been used very much for commerce, and of course this ground I speak of has been lying there in many instances an eye-sore, where people throw bricks, tin cans, and rubbish, and the legislature had no power to dispose of them. Now, the people have voted to build a deep waterway, and when that is done it will probably be followed by the State disposing of the Illinois and Michigan Canal in its entirety. Under the proposed provision it is required to be submitted to the people of Illinois and have their approval. But until that time comes they ought to have power to dispose of some lands and lots not needed in connection with navigation, and for that purpose the provision governing this question was incorporated in this section. The proviso reads, "provided, that this restriction shall not apply to the lease of water or sites for power development, nor to the sale or lease of energy developed from water powers, nor to the sale or lease of lands and lots not needed in connection with navigation, power development, terminals, docks or other appurtenant works;" this proviso can only apply to lands and lots

not needed in connection with navigation, power development, terminals, docks or other appurtenant works; there will only be a few tracts that come within that category, and it ought not to be required to sell lots not needed in connection with navigation, docks or terminals, and so forth, that the question be submitted to the people of Illinois. The main question, disposing of the canal proper, will come up in the Constitution and that must be submitted to the people, and that is all this proviso does, in reference to the sale.

Mr. HULL (Cook). Let me ask you a question.

(Colloquy between Delegates Hull and Scanlan not audible.)

Mr. DAWES (Cook). From this end of the hall there is a spectacle going on that is very interesting, no doubt, but lacks the essential element of being susceptible of being understood.

Mr. HULL (Cook). I will assure the gentleman I will try to speak to him hereafter.

Mr. SCANLAN (LaSalle). So far as the matter I have anything to say about, that only concerns lots and lands not needed for navigation; Mr. Hull raised the question of sites for power development, and I do not know anything about that.

Mr. HULL (Cook). I will not press that question. I will offer another amendment, if there is nothing pending here.

Mr. DUNLAP (Champaign). I have an amendment I think that applies to this situation as has been discussed, at least so much as we have been able to hear. It seems to me there is a considerable matter of legislation injected into this paragraph, anyway, and I desire to offer this amendment to add after the word "created" in line twelve of the printed proposal, the following: "and such other conditions of sale or lease as may be prescribed by law," so if any changes are to be made, they may be made by the legislature and additional conditions imposed. Now, if the implication is we are putting in all the conditions that are necessary to surround this particular proposition of sale or lease of these lands and lots and power development, I think we ought to give the legislature some authority to add any additional conditions that they may find necessary from time to time. I think the general tendency among State departments is to assume all the authority that is possible for them to assume under the Constitution or under the law, and I think the legislature ought to lay down some rule for the sale of these lots, and for this water power that they may choose for such things in advance, so that those interested may bid upon them and the State may have the best returns for its water power development it is possible for the State to have, and not to have it sold in a private way to some corporation that might be on the ground first and secure a contract, I think the legislature should prescribe the conditions under which these leases should be made, and therefore, I am offering this amendment that will give the legislature the power to prescribe such other conditions as they may see fit.

Mr. LINDLY (Bond). In the consideration of this we thought that the legislature would have the power to take care of any of the questions that the gentleman has just spoke of, but in the act of 1919 they did specify how it should be advertised and in what kind of papers they should advertise, and all this for thirty days, but Mr. Chairman, I find in talking with a great many of the members of the Convention that there is a feeling that the departments ought to be restricted, and I see no objection in adopting the Senator's amendment.

Mr. HULL (Cook). Will you please read the amendment.

THE SECRETARY. (Reading.) Amend by adding after the word "created" at the bottom of the first page in line twelve of the printed proposal the following: "and such other conditions of sale or lease as may be prescribed by law."

Mr. GILBERT (Jefferson). I am in accord with the sentiment and purpose of the amendment offered by the delegate from Champaign, and yet I believe it could be expressed in another way to get the same results and make it a little more specific. In other words, the paragraph quoted by the committee has substantially the language of the former provision with refer-

ence to the leasing of lands and waterways, substantially the same with some slight changes, and the term for which the revaluation is to be made is the same from year to year. And now, the question, of course, arises when property no longer is needed for waterway purposes or for purposes of the State in connection with the waterway, is to be disposed of, who shall determine that question, and how shall it be determined? Now, wouldn't it be a better provision to provide in this paragraph instead of the amendment offered by the delegate from Champaign, to insert a paragraph in this language: "Provided that the lands and lots not needed in connection with navigation, power development, terminals, docks or other works appurtenant thereto may be sold"—that is the exception—"the Governor and the General Assembly concurring;"—leave the question of the disposition of the lots or property not further needed to the Governor and to the General Assembly to determine that question. In that way the General Assembly would pass such laws as might be necessary, or such provisions about this question of sale, how it should be done, and let it specifically provide that the Governor and the General Assembly may determine whether the property is needed, how it shall be sold, and while I am speaking, gentlemen, I have this further thought in mind, and I might as well mention it now, the matter of the power sites and the energy that may be produced and the service that may be had from these power sites, the rental and the rates provided in the proposal, in the language of the former provision of the Constitution, that there should every ten years be a revaluation of these rights—I do not know how valuable they are or of how little value they are, nor in years to come I do not know to what extent of value they may reach, how important and how essential and how valuable to the State they may become, but they are rights that of course will grow and will be taken by utility organizations. I have no brief upon this subject, but I have this feeling, gentlemen, that we should have a provision with respect to the rights that will give to the people of the State at all times a fair, reasonable and just return for those rights. Utility corporations under the law and properly so, are entitled to receive reasonable rates; it is so provided by our law and we have a commission to see that that law is carried out. It will continue and should continue, it is right; on the other hand the State of Illinois and the taxpayers are in my judgment entitled to the same fair consideration that the utilities are, and instead of a ten year revaluation of these rights, the contract made by the State for electric service or for water power may become of the greatest value; they may increase tenfold, and yet you are tied to a contract, or under laws that cannot be changed unless the provision in the Constitution is invalid on that subject. I believe it should be possible that the rate charged for the State to be changed, increased or decreased, just the same as the rate of the utility corporations are increased or decreased. It is fair for the utility corporations, the State gives them that protection, and the State is entitled to the same return, I believe. I believe that a ten year revaluation clause is not fair, fellow delegates, to the people of the State of Illinois, that it does not afford the protection that the State of Illinois gives to the utility corporations and it should not be inserted in the Constitution. I believe it should be for a period less than ten years, make it not to exceed five years or less, but the thought I have in mind, gentlemen is, that really it should be left with a provision that these rates be just and reasonable. I would suggest that this language would be better, if you wish to change it, if you agree with the views I have expressed, and give protection to the people of the State of Illinois upon these contracts and these leases of water rights, water power privileges, provide in this form, in language substantially like this: "and provide further that sites for water development and water energy developed from water power may be let or leased and the rentals or the rates to be received by the State therefore, should at all times be fair, just and reasonable, both to the lessee and to the State." It may be said with that sort of clause you could not sell or lease any water power or any energy. With that I do not for a moment agree. I cannot for a second agree that you would be unable to negotiate a lease or find a taker for your service unless you make a ten year or a long time revaluation clause, or that a utility

company will not find a provision, that the rate should always be fair, just and reasonable, acceptable and desirable, that they will always be able to negotiate with the State a fair lease and a fair price, and it should always under the general rule that is accepted everywhere for utility service be based upon a fair and just return. In other words, the State is in the position of selling this service and they should have a fair return, and the amendment offered by the delegate from Champaign (Dunlap) does not go so far as I think it should go; it reaches the same point I have in mind as to the determination and the manner of the sale of the property not needed for the purposes of the State, but if it is proper and it is in order I will offer an amendment. I will offer as a substitute for the language of the amendment offered by the delegate from Champaign and for the report of the committee, as a substitute for both, the following proposal, and ask that it be read to the Convention: "Provided, that lands and lots not needed in connection with navigation, power development, terminals, docks or other works appurtenant thereto may be sold, the Governor and General Assembly concurring, and providing, further, that sites for power development, water or energy developed from water power, may be let or leased and the rental or the rate to be received by the State therefor shall at all times be fair, just and reasonable, both to the lessee and to the State."

Mr. SCANLAN (LaSalle). The Committee on Canals, Waterways and Improvements having this in charge, adopted the provision in the Constitution that was adopted by the people in 1908, when the twenty million dollar proposition was submitted, and that provided there should be a revaluation every ten years. That was approved by the people of the State of Illinois. It became a part of the Constitution at that time. Now, this committee did not think it advisable to omit it or to change the terms since the people passed on that question in 1908, and we thought we would adopt it and keep it in this provision. On the proposition the rate should be fair and equitable, the gentleman seems to think that everything should be submitted to the Utilities Commission, and I will not vote to give the Utilities Commission any more power any time, any day. It ought to be a matter of contract. Since the ten year revaluation clause has been adopted by the people of Illinois at one time, I think the Convention ought to continue it in force. I think this amendment should lie on the table.

Mr. SIX (Pike). We have heard a great deal of the sale of sites, and some time has been given to that discussion, and yet this amendment or substitute does the very same thing. This lease may be made perpetual; it is certain that when any utility develops a water power, it must of necessity put in permanent fixtures and permanent improvements. This substitute will do nothing more or less than give a perpetual lease to the person or corporation who gets the benefit of it, without a revaluation. It occurs to me that this proposition needs to be hedged about with something which I will propose later, and which I will mention now so that the delegates may have it in their mind, a provision about as follows: "after the expiration of any lease or revaluation period the State shall have the right to retake the property for itself or for a new lessee upon the payment of a fair, just and sufficient compensation for the property, and for all dependent property if taken, and if the dependent property is not taken, then fair, just and sufficient compensation be paid for all severance damages. Provision may be made that the old lessee have priority over any new lessee." Now, it occurs to me that no corporation or person or individual can undertake to develop the water power sites of Illinois without knowing in advance something of the cost. Costs cannot be estimated by guessing, and the same commission will say what is fair and just. A ten year period is no doubt too short. The public will have to pay if the period is not long enough so that the corporation or person that uses or develops this power will not be under the necessity of charging to the people the cost, that will be necessary in a short period. I think without any period is just as detrimental; however, I am objecting to the substitute amendment.

Mr. GILBERT (Jefferson). Just a few words in answer to the statement made by the delegate from Pike (Six). I want to call the attention

of the delegate to the fact that the proposal submitted by the committee does not say what period of time the lease may be made for. There is no difference in that respect, they are alike, but if the charge to be received by the State is a charge fair, just and reasonable at all times, the duration of the lease is not material; it is a question that is not material. The question that is paramount is always in the sense of receiving a fair return for the rights that are leased. If the State gets a fair return the State is protected. If the State fails to receive a fair return the State is not protected. If the rights to be leased are for long or short periods, in order to determine the rates, every delegate knows a revaluation is necessary, or a valuation is necessary; that takes care of itself. Rates are based upon revaluation, and if rates should be changed, if the terms should be increased or decreased, that all depends upon the revaluation upon which the rates are based.

Mr. MACK (Hancock). I would like to ask the gentleman from Bond (Lindly) a question or two for information: I want to inquire as to whether your committee has carefully considered some of these things. You know that throughout the State of Illinois there has been a disposition for a long time to look with jealousy upon the giving away for an indefinite time anything in the nature of water power sites. Has your committee considered whether or not you should put some limit on the period of the lease?

Mr. LINDLY (Bond). I will say that we considered that, and we turned over to the provision made by the legislature in the law of 1919, and it provides "that no lease can be made for a period greater than thirty years and with a revaluation every ten years," and that being the law passed by the legislature in 1919 we thought that this provision we have here covered all that was necessary for the Constitution. In regard to the length of the lease, and all those things, they will be left in the hands of the legislature, and as evidence of the work we have done and the protection we have thrown about it, I cite you to the law in regard to that.

Mr. MACK (Hancock). Do you think there ought to be a provision in there, that you should put in there that no lease should be longer than ninety-nine years?

Mr. LINDLY (Bond). Thirty years is the law as it is now. I do not see why we should put that in the Constitution when the legislature has control of that.

Mr. MACK (Hancock). You feel that the legislature should have unlimited power? I am just asking for information.

Mr. LINDLY (Bond). They have the confidence of the people, and I have confidence in them, and with the check of the Senate and the Governor, we think they will make no unduly long contract.

Mr. MACK (Hancock). They could make leases under that for any period?

Mr. LINDLY (Bond). Yes, but it would be revalued every ten years.

Mr. MACK (Hancock). The question is this, is your committee perfectly satisfied that the legislature should make a lease for an unusual period, whether it is entirely safeguarded by the revaluation or not?

Mr. LINDLY (Bond). I do. That is one of the reasons why I was very seriously opposed to the amendment of the gentleman from Jefferson (Gilbert) because I think we ought to safeguard the value of property by revaluation, and the term of ten years is short enough for revaluation, and if a long term was made it would safeguard it by this section.

Mr. MACK (Hancock). Your committee would be in favor of putting no length on the lease?

Mr. LINDLY (Bond). I think we have gone as far with legislative provisions in this section as we should. The fact is if it was not a question where the State obtains money from water power, or something of that kind, I would not favor the last clause at all, because it is purely statutory, and the only reason I do favor it is because it would safeguard the very purpose for which you seek.

Mr. MACK (Hancock). If the limitation of the right of the legislature to give a lease on a great power owned by the State, the limitation of that right, isn't that constitutional?

Mr. LINDLY (Bond). I think it would be superfluous.

Mr. MACK (Hancock). I understand, but isn't it constitutional? Didn't your committee seriously discuss and consider the question as to whether or not the time limit should be put upon the lease?

Mr. LINDLY (Bond). Not any further than to say that was in the power of the legislature to fix, and we had an example of what they would do, and that was perfectly satisfactory to the committee, the thirty years' lease.

Mr. MACK (Hancock). You realize what you find in the law is simply a statute? You are now voting a limitation. Would you object to answering this question as to whether or not a limitation of this kind is not a constitutional matter? Am I right about that?

Mr. MACK (Hancock). Wouldn't it be properly constitutional, it would be, wouldn't it?

Mr. LINDLY (Bond). Yes, it would be.

Mr. MACK (Hancock). Does not the distinction between constitutional and statutory provisions arise at that point, you are giving the legislature power to handle this, to lease for a period more or less indefinite the right to use the water and the power of the water possibly for all time to come? Is not the limitation upon that right one of the distinctively constitutional provisions that come before this Convention?

Mr. LINDLY (Bond). I think if you put in this Constitution that the legislature shall not lease this for more than ninety-nine years, the people would figure that you are granting the right for ninety-nine years, and they would go up into the air on that proposition.

Mr. MACK (Hancock). You think that is a tacit approval of that?

Mr. LINDLY (Bond). I think the people would believe that the legislature had the right to accept the lease for ninety-nine years, and I think it is a great deal safer for the State legislature to make the terms.

Mr. MACK (Hancock). If the right be granted for three hundred years, what would the people think of that?

Mr. LINDLY (Bond). That question in 1908 was not raised at all.

Mr. MACK (Hancock). I want to say to the gentleman from Bond that I have great confidence in your committee, and I am asking this for information; it seems to me a matter that calls for serious consideration, and I want this Convention to carefully consider that, and I say candidly and honestly I do not know what ought to be done. Some of you gentlemen who have been in the General Assembly and who have considered these matters, been in contact with them for many years will be more or less my guide in the matter, and I think this matter should be carefully considered by every man in the Convention, that every man should have before his mind what he is doing, and we ought to understand that the legislature not only has the right to lease for thirty, fifty or one hundred years, or five hundred years, if they see fit. That is true, isn't it?

Mr. LINDLY (Bond). I think they could not.

Mr. MACK (Hancock). What limitation is there?

Mr. LINDLY (Bond). I have a great deal more confidence in the legislature than some people seem to have, that they will do the wrong thing, that they will do the things the people do not want them to do. I believe that the rights of the people, so far as these leases are concerned, are just as safe in the hands of the House and Senate as they are in the hands of this Convention, and I do not believe that it would be prudent for this Convention to put a ninety-nine year clause in there, because the people would object, that this Convention has practically leased the water power sites and the energy developed from it for ninety-nine years, and I think it would be very detrimental. I appreciate the interest and the remarks of the gentleman from Hancock, and I can assure him I am as much interested as he is; we discussed this matter thoroughly, and we arrived at that conclusion.

Mr. MACK (Hancock). I suggest to the gentleman that I had no desire to raise any question as to the integrity of the legislature. I had no such idea as that, but I was only suggesting to you the ultimate theory, not what

the legislature might probably do, but what they might do. Let me say now, to set myself right, during all these deliberations I stand here upon the theory that we shall have confidence in what the General Assembly may do; it comes from the people, and if they go wrong the people will make it right, and I expect to travel throughout the deliberations of the Convention with the idea that the General Assembly is the people, and I have perfect confidence in the great State of Illinois.

CHAIRMAN WILSON. The question is on the substitute of the delegate from Jefferson.

Mr. RINAKER (Macoupin). There are some things in this amendment and some things in this proposal that do not appeal to me at all. I do not know much about these canal matters, but I have a recollection of some time in the past when the State lost the use, as I understand it, of a very valuable right somewhere along this canal, through some possible right then in the State to dispose of it. At any rate, by the action of some State authorities we lost a great right that the State had, as I understood it. I am opposed to this Convention going on record in any way for the sale of any property that this State owns, and I do not see why when we have possession of property that was acquired when it was cheap and was supposed to be adaptable to some use which we cannot now make of it, and yet which might become very valuable in case of the success of the deep waterway, I see no reason why we should in the Constitution help the sale of that property. I see no reason why if it might develop that there was some burden upon the State in keeping it, why it should not be disposed of, but the principle of the sale of property which belongs to the public is one that never appealed to me. There is no reason why the property should not be used, or available by laws that might be made by the State authorities. It is perfectly proper to authorize the leasing of this property for such purpose as it might be available for until required by the State, and with that in view I want to offer as a substitute for the several pending amendments this resolution, and the proviso from line seven to twelve, inclusive, "provided that this restriction shall not apply to the leasing of water or sites for power developed, or to the sale or lease of energy developed from water power, or to the lease of lands or lots not then required for the use of such canal or waterway for temporary use until required for such canal or waterway, all to be made upon terms and conditions to be prescribed by law." That is a matter we can assume will be properly cared for by the legislature and by the administration, the Governor, and I see no reason why with the safeguard in the resolution, that it is for a temporary use and until required, why we may not properly leave to the legislature and to the executive, the terms upon which this shall be done. Those are legislative matters, those are mere business incidents under the authority that is conferred here to lease property, and I see no reason why we should attempt now to legislate for the coming fifty years or more by putting all that in the Constitution; if we cannot trust the legislature and the executive at all, the work of this Convention will be elaborated until the statutes that we have now will be nothing but an insignificant volume in comparison with what we have put into the Constitution.

Mr. MORRIS (Cook). Mr. Chairman, there has got to be an end to substitutes and amendments, and we have gotten far beyond it now; there is an original motion, the amendment offered by the gentleman from Bond and a substitute now, and that is as far as we can go.

CHAIRMAN WILSON. The point of order is sustained.

Mr. DUNLAP (Champaign). The substitute offered by Delegate Gilbert seems to me to be rather against the interests of the State than for it, as I see it, in leasing this power. I would say that the amendment I have offered here giving the legislature authority to prescribe such additional conditions as might be considered necessary by law would take care of the interests of the State along those lines. I do not think we ought to put any more legislative matters in these provisions than is necessary. Therefore, I believe that the substitute should not carry.

Mr. IRELAND (Woodford). The discussion on this subject seems to vary slightly, mostly in a legislative way. The committee had in mind in

taking up this subject, first, the protection of the canal by a vote of the people in case of its sale. Then they found there are certain lots and parcels of land that under the law were part of the canal, but in reality were separate, absolutely disconnected, and to make it possible for the State to derive revenue, or even sale, they placed that in the hands of the legislature, in whom they seem to have more confidence than some members of this Convention. There is nothing in the proposal that makes the State sell, but that leaves it to the legislature, and is a matter for them to decide, and in what way. The ten year period was considered by the committee as fair between the State and the lessee. It takes two parties to a lease, and while the rights of the State must be preserved, the man that leases that power site must be protected in his rights, so they considered the ten year period as the fair period for readjustment of rates.

Mr. HAMILL (Cook). Mr. Chairman and Gentlemen: I desire to make an explanation. I have not participated in this debate, and I shall not vote upon any question arising under this article for the reason that there is pending in the courts in Cook county now some litigation between the State and clients whom I represent involving ownership of some lands adjoining the Illinois and Michigan Canal. I desire to be excused from voting upon any question under this article.

Mr. MILLS (Macon). I am a good deal like my friend from Macoupin; I do not believe any man in this Convention can foresee or foreknow what property will be actually needed ten, twenty, fifty or seventy-five years hence. There ought not to be any of this land sold nor leased for longer than ten years, with revaluation at the end of that time, so that the State itself can keep its hands upon this property until such time as this deep waterway is finally determined, and the State can see just exactly what is then needed, or immediately in the future, so I am opposed to any sale or any proposition for the sale of any of this land or the leasing of it longer than for a period of ten years.

Mr. SHANAHAN (Cook). I am afraid that some of the members are laboring under a misapprehension regarding the sale of what is known as lots and parcels of land. In a number of cities in this State there are parcels of land, lots, individual lots, parts of lots; the title of which were in the Illinois and the Michigan Canal Commission, originally, but now transferred to the Department of Public Works. The desire is that those lots or parcels of land may be sold without having to submit the question to the electorate of the State of Illinois. The question is not to sell any portion of the Illinois and Michigan Canal, or land adjacent thereto, but to sell these small parcels of land, like in the City of LaSalle or Ottawa, or in the City of Lockport, or in the City of Chicago, and I think that the legislature ought to be empowered to pass laws for the sale of these lots.

Mr. HULL (Cook). For the purpose of this record, Mr. Shanahan, let me ask you a question; would you say that this provision in the original proposal permits the sale of lands and lots not needed in connection with navigation, would not permit the sale of any part of the Illinois and Michigan Canal which is now used for the purpose of navigation?

Mr. SHANAHAN (Cook). Absolutely, I think it is protected in this section.

Mr. RINAUER (Macoupin). I would like to inquire how extensive these tracts of land are. I have heard that some of them were fourteen acres or more. If that happened to be in the City of Chicago, it would be serious.

Mr. LINDLY (Bond). Let me answer that question. It was me that said there was a tract of fourteen acres. The department told us it was in Southern Illinois, somewhere, which was acquired by the State trying to make some improvement on the river down there. I have forgotten just where it was, but of course being in Southern Illinois, it would not be worth much. (Laughter).

Mr. SCANLAN (LaSalle). I do not know of any tract more than a lot or two in extent; I do not think there are any. The canal proper would be a tow-path, the ninety foot strip—there is no tract in my county of fourteen

acres, or anything like it. In Ottawa there are some ordinary town lots detached from the canal, down near the hospital, a nuisance covered with weeds, cockle-burrs, rubbish and tin cans. Those lots were intended for stoneyards and boat yards and they are on an abandoned feeder, which was a connection between the river and the canal to the south, and from the Fox River on the north, there is another abandoned feeder; it is a cess-pool, disease breeding place, and there is no way to fill it.

Mr. RINAKER (Macoupin). I would like to inquire a little bit further as to this property. If the fourteen acres are in Chicago, that would be subject to this. I have been told that there is property that is very valuable, up into the millions, I do not know.

Mr. SHANAHAN (Cook). The only land in Chicago owned by the State that is valuable is that adjacent to the Illinois and Michigan Canal running from Ashland avenue west along what is known as the tow-path, and the land that was used for the pumping works at the corner of Ashland avenue and Canal.

Mr. RINAKER (Macoupin). How extensive is that?

Mr. SHANAHAN (Cook). When the deep waterway is a reality and not a dream, it will be very valuable, and I would not attempt to place a value on it. The only other piece of property in Chicago that was of great value was at the corner of Michigan avenue and Twelfth street, a lot running from Michigan avenue to Park Row, with a width of twenty-five feet on Twelfth street, and the State failed to use it for any purpose and the South Park Commission widened Michigan avenue and took the property, and it is now used as a boulevard. There are a few parcels, stub ends of streets, triangular pieces where streets cross, the title of which is still in the State of Illinois. They are too small for any use; there is one piece at the corner of Archer avenue and Twentieth street that lay there for years and was used as a dumping ground. A few years ago the City of Chicago put a small park in there, but the railroads came along and bought the adjacent property and it is now going to waste again. There is another piece on the North side, a triangular piece at the intersection of streets, that is used as a small park. But I know of no large parcel in the City of Chicago that is of any value except that adjacent to the Illinois and Michigan Canal, and that cannot be sold under the terms of this proposal unless submitted to the vote of the people of the State.

Mr. SHUEY (Clark). I would like to know who determines that question, whether that should be referred to the people or not, as upon the decision of that question depends whether the sale should be referred to the people, the question of the sale.

Mr. LINDLY (Bond). My answer would be, that the department and the Governor would determine that, as I understand it. If they want to sell any of the land it has to be submitted to the Governor in writing, and he has to give his written consent before it can be sold, but the last analysis of the proposition would be that if there was any doubt in the minds of any citizen in the State whether the department and Governor had done their duty, in determining whether it was necessary for the different things that are indicated in this proposal, that they can resort to the courts and that would be the final analysis.

Mr. CARLSTROM (Mercer). In view of the statement of the gentleman from Cook, who is informed on the subject, that there is no parcel of ground of any considerable value that could be subjected to the provisions of this, except that part of Ashland Boulevard that lies along the Illinois and Michigan Canal, which will become immensely valuable in time, in view of the fact that that will become so valuable in the future, I feel it would be inadvisable for the State to sell at this time, and I would suggest that many of the questions that are controversial with regard to the questions could be settled by inserting in line nine after the word "lots" the words "detached from the right of way of the canal." That will enable the sale of the isolated parcel and yet will not permit the sale of that part which lies along Ashland Boulevard, and will thereby preserve to the people that strip which will become valuable. I agree with Mr. Rinaker, with

the spirit of his attitude, that we should not lightly authorize the disposition of property that belongs to the State of Illinois that it has acquired when not expensive, but that in the development of the State is rapidly becoming valuable. I think that we should be very careful and chary about authorizing the sale of any such property.

Mr. GILBERT (Jefferson). Let me ask you a question: Would you favor a provision that the State of Illinois should lease its water rights to a utility corporation for less than a reasonable return?

Mr. CARLSTROM (Mercer). No, sir, but I will not put the State in the position of defending its own acts, assuming the burden of proof that belongs to the other fellow.

Mr. GILBERT (Jefferson). Does not the provision prevent the letting of rights or the use of rights from time to time at less than their fair worth?

Mr. CARLSTROM (Mercer). I will say to the gentleman from Jefferson to leave that part in that says that there should be a provision to protect the people of the State in order that they might have a reasonable and just return. I am with you on that proposition, but I do not believe in placing a burden on the State to justify its own acts.

Mr. GILBERT (Jefferson). Would you expect a utility corporation to take these rights if they would be required to pay more than a fair and just rate for services?

Mr. CARLSTROM (Mercer). The courts of the State would protect them, and they should protect themselves, and not put the State to the necessity of justifying its own acts. The people have the right to dispose of what they own, and they are not bound to consider the interests of some organization or group of people, or any individual.

Mr. GILBERT (Jefferson). Are we agreed upon the proposition that the people of the State are entitled to a fair return?

Mr. CARLSTROM (Mercer). Absolutely, but I want to consider the other feature of it.

CHAIRMAN WILSON. Please read the substitute proposal offered by the delegate from Jefferson.

(Proposal read by Clerk as requested.)

Mr. TRAEGER (Cook). That does not make a provision for the preservation of the tow-path. Suppose they sold all the ground up to the canal, there is no provision reserving that. It seems to me that if the canal is to be of any use, the abutting property should be preserved. I personally am opposed to the sale of any property that belongs to the State or to the city or county, but there ought to be a provision, if you are going to grant that privilege, at least that a certain amount of ground should be preserved for a use that may be needed at some future time.

Mr. GILBERT (Jefferson). Suppose the proposal says a sale shall not be made of property not needed unless both the General Assembly and the Governor both concur, don't you think that is a sufficient safeguard against improper sales of property?

Mr. TRAEGER (Cook). We might at some future time be unfortunate enough to have a legislature that might not protect the rights of the people. Our desire is to protect them. We have the utmost confidence in our General Assembly, but there have been times when legislative bodies have done acts of which the people did not approve, and why not protect the State against that?

Mr. GILBERT (Jefferson). Would not you also have the protection of the Governor, and could you assume that the Governor and the General Assembly would both be wrong after the publicity that would be given to this matter?

VOICES. Question, question.

CHAIRMAN WILSON. The question is on the adoption of the substitute.

(Substitute lost.)

Mr. DUNLAP (Champaign). I desire to change the phraseology of my amendment so it may apply to laws already on the statute books: add at the bottom of the page after the word "created" in line twelve, the words,

"and such additional conditions of sale or lease as are now or may hereafter be provided by law."

Mr. SIX (Pike). I move the following amendment as follows: "after the expiration of any lease or revaluation period the State shall have the right to retake the property for itself or for a new lessee upon the payment of a fair, just and sufficient compensation for the property, and for all dependent property, if taken; if the dependent property is not taken, then fair, just and sufficient compensation be paid for all severance damages. Provision may be made that the old lessee have priority over any new lessee."

Mr. LINDLY (Bond). The gentleman has copied, I think, as I remember the language, verbatim the present law on the statute books as an amendment. If you will take the law and read it, that is already on the statute books, and it is absolutely useless in here. The gentleman from Champaign (Dunlap) has an amendment that would help this proposal, and the committee would be very glad to accept that, but I think the amendment of my good friend from Pike (Six) is entirely out of place, useless, and not needed, and I hope you will vote that down and accept the amendment of the delegate from Champaign.

Mr. SIX (Pike). There is no element of property here more important than the terms and conditions upon which this property right will be surrendered. I am not opposing a utility by this proposition; I am simply trying to preserve rights which they will have by virtue of their investment. I am trying to preserve rights which the people have, that they be not charged with some hazard which any utility will have to take if such proposal is not in our Constitution. This is a limitation against the legislature which may be in control at some time of parties who are unfair to investments of this kind. We know utility companies are serving entire States by transmission lines. That must continue, and it is essential that those utilities be protected in their property and in the termination of their leases, and it is just as essential for the people as the utility.

CHAIRMAN WILSON. The question is on the amendment to the amendment.

(Amendment to the amendment lost.)

CHAIRMAN WILSON. The question is on the amendment of the delegate from Champaign.

(Amendment carried.)

Mr. DUNLAP (Champaign). I desire to offer an additional amendment. Amend by inserting the word "detached" after the word "of" in line nine of the printed proposal. This will read then, reading line nine, "or of detached land and lots not needed in connection with navigation." The question has been raised that the land might be sold up to the channel, and not even a tow-path left. I think the object of this provision offered by the committee, as I construe it, is that they desire to sell the detached lands and lots not used for navigation purposes, so I think the word "detached" there will clear the atmosphere and make it so that the Illinois and Michigan Canal itself, or the land immediately adjacent cannot be sold.

Mr. RINAKER (Macoupin). The trouble with that amendment is that the word "detached" ought to have some further qualification to make it definite. It is all detached from me, all detached from my county. I still am opposed to the idea of selling anything, and I thought I had waived the floor temporarily only, and now that I have the floor I give notice that I propose to reoffer the substitute which was offered out of order, putting up to the Convention the question of the sale of any of its property.

Mr. CARLSTROM (Mercer). I desire to offer the following amendment for the amendment offered by the delegate from Champaign. Strike out the "sale or" in line nine before the word "lots" in said line nine, and insert after the word "works" the words "nor to the sale or lands or lots detached from and not appurtenant to the right of way of said canal or waterway."

Mr. DUNLAP (Champaign). I will accept the amendment of the gentleman from Mercer (Carlstrom.)

CHAIRMAN WILSON. The Secretary will now please read the amendment.

(Amendment read by Secretary.)

Mr. WOLFF (Cook). The Dickenson Seed Company of Chicago, have taken possession of part of the canal, terming it as their ground by reason of the fact that that ground was in the beginning condemned and sold for canal purposes and it is no longer used; they have taken possession of it and have fenced it, and there is a suit pending now; if they win out in this suit and receive title to this parcel of ground, then everything east of that will be detached, will it not, and it will be salable.

Mr. LINDLY (Bond). That is a question for the court; I know that some of this land has been taken possession of.

Mr. WOLFF (Cook). But if they win this suit, then everything east of that will be detached and will be salable under your clause.

Mr. LINDLY (Bond). That is in litigation now, and the courts will determine that matter.

Mr. WOLFF (Cook). If they do win that suit, then the State can condemn that certain parcel for canal purposes and still save that part which is east.

Mr. RINAKER (Macoupin). The more I hear in opposition to the idea of simply leasing this property and the more I hear insisting that this Convention shall authorize its sale, the more I am impressed with the wisdom of this Convention taking the position that it should not in any way authorize the sale of any of this property. We have not the information that justifies us, as the servants of the people in preparing a Constitution, to determine all these questions. They are evidently matters of very serious import to some, and therefore they require the investigation and the consideration that can be given by the legislature and which we cannot give. I therefore insist upon the adoption of the substitute as the safe, wise and sane thing for this Convention to do.

CHAIRMAN WILSON. Please read the substitute amendment, Mr. Clerk.

THE SECRETARY. (Reading). "Providing, that this restriction shall not apply to the lease of water or sites for power development or to the sale or lease of energy developed from water power, or to the lease of lands and lots not then required for the use of such canal or waterway for temporary use until required for such canal or waterway, all to be made upon terms and conditions to be prescribed by law."

Mr. GILBERT (Jefferson). I rise for the purpose of saying that the substitute does not go as far as the substitute I proposed to this Convention, but I believe it should be adopted in preference to the proposal pending before the Convention, and I am therefore in favor of the substitute offered by the delegate from Macoupin.

Mr. HULL (Cook). I understand this substitute disposes entirely of the provision for revaluation every ten years.

Mr. CLARKE (Lake). I wish to be excused, gentlemen of the Convention from voting on any of the proposals that may be offered, as I own as trustee some valuable land in the City of Chicago, that is involved in the suit of which Mr. Hamill spoke.

VOICES. Question, question.

(Substitute lost, 38 to 23.)

CHAIRMAN WILSON. The question is now upon the amendment of Delegate Carlstrom to the amendment of the delegate from Champaign.

Mr. DUNLAP (Champaign). I accept the amendment of the gentleman from Mercer; it amplifies what I wanted to do and does it in a little better way.

Mr. LINDLY (Bond). We accept that amendment.

(Amendment carried.)

Mr. GILBERT (Jefferson). I offer an amendment to the proposal as it now stands; substitute the word "five" in place of the word "ten" in line five, so that there may be provided in the Constitution for a revaluation of the water rights and water power every five years.

CHAIRMAN WILSON. The question is upon the amendment offered by Delegate Gilbert from Jefferson.
(Amendment lost.)

Mr. HULL (Cook). I offer an amendment as follows: "Amend Proposal 354 by adding after the word "lease" in line eleven of the printed proposal, the words "or rate specified to be paid in any such sale of energy."

Mr. LINDLY (Bond). We discussed this matter with the Senator and the committee agreed that this be adopted and added to this proposal of the committee.

CHAIRMAN WILSON. The question now is on the amendment of the delegate from Cook, Mr. Hull.

(Amendment carried.)

Mr. REVELL (Cook). Mr. Chairman, I offer the following amendment. Amend by striking out the last three words in line six, first paragraph, "at such election" and insert therefor the words "or such proposal." Mr. Chairman, the reason I offer this amendment is that there is a chance for misapprehension in connection with the words now used in the proposal. It seems to me if the words are allowed to remain as they are now, it may be construed—at least it would have to be taken to the courts for their consideration—that it meant a majority of votes cast at that election, whereas I think it is in the minds of the delegates that it should be a majority of votes cast on this proposal; therefore, my amendment will cure I think any possibility of misapprehension upon that subject.

Mr. LINDLY (Bond). This question was thoroughly discussed by the committee, and the old Constitution provides "shall have been approved by a majority of all the votes polled at such election."

This would be an important question of selling if it was proposed after the deep waterway was constructed, the whole body and the land adjacent thereto was not necessary for the waterway and if they would offer to sell it, it would be an important question, probably involving several million of dollars, and we thought that question if submitted to the people should not carry unless it had a majority of the votes cast at that election, and I believe we are right.

Mr. REVELL (Cook). With that explanation I withdraw my amendment, because that is what I wanted to get into the record upon the meaning of those words.

Mr. LINDLY (Bond). Now, Mr. Chairman, I move the adoption of this section as amended.

Mr. RINAKER (Macoupin). Mr. Chairman, I don't want it to be thought that I am a poor loser, but I have been told since the vote was taken on the question of selling or leasing only, that there were a few able members of this Convention who did not understand what the question was, and for that reason, for one, I want to say that I cannot approve these two sections in the shape in which they are, and that from now on I shall vote against their approval. I hope that is not regarded as a mere personal matter, but it seems to me through some misapprehension we have failed to comprehend what we were really voting upon, and I therefore for one, shall not vote for the passage of this motion.

Mr. MILLS (Macon). As I stated awhile ago, I am opposed to the State selling any of this property. No one can tell what ten, twenty or thirty years may bring about. I have known in my own observation and practice that pieces of land have been sold for a mere song that in the whirligig of time have become very valuable and the proud fellow that had sold the original piece paid for the abutment many times more than it was worth and that he received for it, and my prediction now, and I am not a prophet nor the son of a prophet, but if this property is sold there will be some part of it needed by this State, and to acquire it, we will have to pay more than we got for the property we have sold. Therefore, I shall vote against it.

Mr. REVELL (Cook). I merely wish to ask you, if you oppose the sale of the property, are you in favor of leasing it?

Mr. MILLS (Macon). Not to exceed ten years, and then have a revaluation of it.

Mr. SUTHERLAND (Cook). I would like to ask for information of either the delegate from Bond (Lindly) or the delegate from Cook (Shanahan) both of whom have had long legislative experience as to what the effect

is going to be of dropping from section one of the present provision on canals the language "the General Assembly shall never loan the credit of the State or make appropriations from the treasury thereof"—especially that latter phrase "make appropriations from the treasury thereof in aid of railroads or canals;" I would like to ask whether that is going to change the situation that has existed in the past with reference to appropriations by the General Assembly for canal purposes, so that the canal may be operated and constructed out of tax levies in excess of what is now provided under the amendment of 1908.

Mr. LINDLY (Bond). I thought I made that plain when I was speaking about it, that now the State having appropriated twenty million dollars for the construction of the waterway and for power sites, all these things, it will be necessary to appropriate money to take care of it, and for that reason if you leave remain in the Constitution this provision, the legislature could not appropriate money to maintain the twenty million dollar waterway, and then another question that was asked the other day that I did not answer, and that was whether this money went into the treasury. The law passed in 1919 provides that this money shall be put into the treasury into a special fund, and for the purposes of repair, and so forth, so that the appropriation made by the General Assembly would very likely come out of the money that would be put into the treasury as a special fund that has been earned by the canal.

Mr. SUTHERLAND (Cook). Then, as I understand it, present appropriations could be made only from the funds realized from the sale of the twenty million dollars or from the earnings of the canal, whereas, if this new section is adopted, funds may be appropriated from both sources but not out of funds from the general tax levy.

Mr. LINDLY (Bond). They might be, but I would not think they would be.

Mr. TODD (Peoria). I think there are questions yet that we have not been able to work out in this matter. Some of us have been getting information on the subject about which we have not had information before, and so we may have an opportunity to thoroughly investigate the questions, I move you that the committee do now rise, report progress and ask leave to sit again.

Mr. LINDLY (Bond). It seems to me that this Convention should decide these questions in the Committee of the Whole, and when we have discussed them we should adopt something. We have been here for three weeks discussing three reports of committees, nearly four weeks, that is reports from minor committees and we have adopted but one. There are twenty-five reports to come in from these committees. How long will we be here unless we do something. Let us decide this question. If you are going to discuss it today and take until next week to find out what you think about it, we will be here for a year.

Mr. SUTHERLAND (Cook). I am not fully satisfied with this section in my own mind, but it occurs to me the delegate from bond is entirely right. The rules provide a very good way for making progress. We have considered this in the Committee of the Whole. If it goes to the second reading, as it will, if the Committee of the Whole approves the section as it stands, no rights will be lost, and any delegate can raise any question and have amendments made, and it seems to me we will make better progress by making such disposition of the matter as this committee can now make, and take up further reports on the calendar.

(Motion lost.)

Mr. LINDLY (Bond). I move that we adopt this section as amended.

Mr. ELTING (McDonough). I think it is the rule of all legislative assemblies, I am not sure whether it is one of our rules or not, that when numerous amendments have been made, that the bill be printed before the final vote is taken.

Mr. LINDLY (Bond). Let me answer that question. When this comes back on the second reading it will be printed as amended.

Mr. ELTING (McDonough). I want to state, Mr. Chairman, in principle I am opposed to the State disposing of its resources. I am in favor of conservation of its resources. I am not in favor of disposing of any of the State's property, because there is no necessity appearing here for disposing of it. Second, we are demanding a great waterway, and until that is built and going, it would be hard for anybody to decide whether or not these lands you are talking about may be sold. I think everybody here is in favor of the waterway project, and when that is built there will be new demands, the matter of commerce will be contended with, and how can we tell in advance what is detached land and what is not needed? I am opposed to this section.

Mr. FIFER (McLean). Mr. Chairman, my attention has been called to the fact for the first time during this discussion that this proposition that is now before the Convention for adoption or rejection leaves out this important provision in the present Constitution. I will read it: "The General Assembly shall never loan the credit of the State or make appropriations from the treasury thereof in aid of railroads or canals." Now, gentlemen of the Convention, that has been regarded as one of the most valuable provisions in the present Constitution, and that was brought about in the way of making appropriations for the deep waterway so-called at that time, requiring an amendment to the Constitution of the State. Anybody familiar with the history, with the financial and legislative history of Illinois will know that the State was rendered almost bankrupt by reason of the fact that a provision of this kind was not in the former Constitution previous to 1870. All through the thirties you will find that hundreds of thousands of dollars were appropriated to make navigable some of the rivers of Illinois, mostly in the southern portion, and since this has been tried out, it has been found if they were macadamized they would make splendid hard roads for the State of Illinois. Wise men, and good men advocated repudiation of those bonds, but the natural growth of the State, population came in, we had a vast and fertile territory, so we paid the debts and saved our honor. Now, I hope the Convention will adopt no part of the Constitution that will annul or abridge the provision now in the Constitution in regard to that. This provision that is left out provides that the State "shall never loan the credit of the States or make appropriations from the treasury thereof in aid of railroads or canals." They tell me that the railroad matter will be taken care of by other committees and in other provisions of the Constitution, and that being true if this proposition is adopted there will be nothing in the way of future legislation from appropriating to the so-called deep waterway of Illinois millions and millions of dollars. Now, think of it. After the experience of Illinois previous to the adoption of the Constitution of 1870, the State was made nearly bankrupt, and now with the deep waterway confronting us it will be the insatiable maw that will eat into your State treasury until our people will be loaded down under public indebtedness. Now, think of it. This State after all this experience we have had without a provision of that kind, amended the Constitution of Illinois in 1820; the people were hoodwinked into voting for it. They did not understand the importance of its effect until the Constitutional amendments, as I remember, were passed in 1908, and it was for about fifty miles of waterway, twenty millions of dollars. It is said that they are going to build a deep waterway from the lakes to the gulf. That sounds very big, but we down State have been looking for the big ships to come down the canal, and we will continue to look through the days, like these ancient mummies you see in the City of Washington that were prepared for the resurrection by being embalmed, and they are waiting yet; for five thousand years they have been waiting for the resurrection that was promised them by their prince, and so we will wait possibly for one thousand years before we will see a deep waterway between Chicago and the gulf. That deep waterway is well described by Saint Paul in his letter to the Ephesians, "It is the substance of things hoped for and the evidence of things not seen." (Laughter). Now I hope that this Convention will sit down on this proposition and sit down on it hard. (Applause.)

Mr. GREEN (Champaign). It would seem to me that the delegates to this Convention in Committee of the Whole are not yet ready, not as nearly

ready to vote on this section as they were when it was reported by the committee. My personal feeling is that the distinguished delegate who is chairman of that committee, knows a lot more about this subject than I do, as do all the other members of that committee, because they have been considering it, and I have made up my mind to support the proposition as it came from the committee. In my humble judgment there have been amendments made to that section that have opened the door, in addition to the suggestions made by the delegate from McLean, to other vices that we ought to stop and consider. Prior to 1870 the State of Illinois was cursed with special charters granted by the legislature conferring special privileges and a whole lot of the result of that unfortunate method of granting charters by the legislature has been visited upon those who have undertaken to do business under the law since that time. Special privileges were created. In my judgment with the amendments that are made to this section now, opportunity is offered to violate, for the legislature or the creature of the State in the future to violate, the spirit of the present provision of the Constitution of 1870, which prohibits the legislature from granting to any corporation, association or individual, any special or exclusive private immunity or franchises whatever. I cannot see how under this section as it stands now with the restrictions that have been placed against the action of the legislature it would be possible for the State to reap any benefits from it except by the granting of special privileges. Now, may be it is necessary to grant special privileges, but it seems to me so potent that we are not in a condition to vote intelligently upon the section as it stands that we ought not to force a vote now. I understand we have labored a long time and have not accomplished much. I fear some of our remarks should have been addressed to the committee having this under consideration rather than waiting until it comes on the floor for amendments. We have injected a great deal of legislative matter in this proposal that was not there, and it does not seem to me the point of wisdom that this committee ought at this time to dispose of this matter, and in order that we may pay that reverence to that attitude which the committee now has assumed, I would like to renew the motion that this committee rise, report progress and ask leave to sit again.

Mr. LINDLY (Bond). We are perfectly willing that the committee shall rise.

(Motion carried.)

(President Woodward presiding.)

Mr. WILSON (Cook). Your committee having under consideration Proposal No. 354 begs leave to rise, report progress and asks leave to sit again.

(Report adopted.)

Mr. GREEN (Champaign). I move the Convention do now adjourn.

(Motion carried.)

THE PRESIDENT. The Convention stands adjourned until tomorrow morning at ten o'clock.

Whereupon an adjournment was taken by the Convention to Thursday, April 29, A. D. 1920, ten o'clock a. m.

THURSDAY, APRIL 29, 1920.**10:00 o'Clock A. M.**

The Convention met pursuant to adjournment.

The President in the chair.

Prayer by the Chaplain.

THE PRESIDENT. The Journal of Tuesday, April 27, 1920, was placed on the desks of the delegates on yesterday, and is now subject to correction. There being no corrections proposed, the Journal of Tuesday, April 27, 1920, will stand approved, and it is so ordered.

Whereupon the Convention proceeded upon the order of special orders of the day, reports of standing committees.

Mr. BRANDON (Kane). The Committee on Education begs leave to offer a recital of facts in connection with this report.

To the Honorable President and Delegates to the Constitutional Convention.

We, your Committee on Education, beg leave to offer this following recital of facts in connection with its report:

We have, for so many years, pointed with pride to the many good things about the public school system of the State of Illinois, that it has become almost sacrilegious for anyone to intimate that it is imperfect.

To your committee, however, who has for some weeks examined evidence brought before it, in considering the various proposals of this Convention, it is quite evident that the public school system is still a long way from being what its best qualified friends might wish it to be.

The testimony before the Committee discloses the fact that of one hundred children, who enter the first grade of the public schools thirty have dropped out at the end of the sixth or seventh grade, and thirty more have concluded their educational process at the end of the eighth grade. Another thirty have bade the school room farewell at the end of the twelfth grade, leaving only ten out of every hundred who entered the process to enter the University, from which only two or three actually emerged with diplomas acknowledging the complete treatment afforded by the State.

It is obvious to anyone, who studies the question from an unbiased standpoint, that this lapsation is most serious in its effects. It results in a condition by which the greater majority of young people are prepared for life only in the rudiments. Their school experience is so brief that nothing of any consequence looking toward self support is ingrained into them and they go to their shop, their bench, or their field with no real preparation for a producing place in society, and do not, in these years they give to work which should be given to study, contribute a value at all commensurate with society's loss due to their having been insufficiently trained.

Your committee sees much encouragement, however, in the fact that the educational records in Illinois show constant improvement. More young men and women are going through the University today than ever did before. There are more high school students per capita today in Illinois than ever before. This tendency toward improvement has been gradual and has no doubt been in close proportion to the development of public opinion and the consequent development of the willingness of those controlling property to devote more money by taxation to school purposes.

Your committee would not, however, feel that its report were complete did it not insist that this development must continue if the State is to develop as it should and that the only reason the committee consents to report the same phraseology in section 1 article VIII that has stood for fifty years lies in the committee's belief that antiquated and seemingly narrow as these

words are, and regardless of how poor a description of the State school system these words may be, that there is nothing in them, which may in the future result in retarding the upward development of education, but that on the other hand they may for all time to come be taken as an acceptable definition of whatever advanced educational system the State may, from time to time be willing to adopt.

Your committee feels that if it had its way about it and public opinion were enlightened by the same study of the conditions that your committee has been privileged to make, that public taxation for educational purposes would be very greatly increased. Education might be described as the propaganda which property disseminates among the persons who live about it. Without education property would be subjected to the attacks of those lacking in respect for property. In proportion as property, through public taxation, promotes education, its own safety and opportunity for peaceful, progressive development is increased. If there be any here who feels that he holds a brief for the rights of property and fears that it might be overcharged by the cost of child development, let him think long and well if it be not true that property may make no better investment than the education and development of those who live in constant contact with it.

Your committee entered its work with the thought that the formal declaration by the State that at the expense of property the State would be the school master of the child, might well be broadened to provide the theory that the State can not afford to allow any child to develop into years in it without receiving the maximum development possible in accordance with the child's mentality. In other words, there is a feeling in the minds of your committee that it is good business for the State to see to it that each unit which constitutes its citizenship is led just as far as possible toward intelligent self support.

Your committee feels that in order to bring this about it would be well if definite stages or stopping places might be provided in the public school system.

Your committee finds, as it is at present, that the work of the curriculum of the first grade of the public schools is merely a preparation for the work in the second grade. In the same manner this process of *in gradatim* development goes on each year being for the purpose of preparing the mind of the child for the consequent year, there being no definite point of departure from the system producing a finished product, other than the senior class of the State University or the senior class of similar schools within the State not supported by State funds.

Your committee feels that if there were a short course definitely laid down for the boy and girl, whose parents are reasonably able to declare, at, say the fifth grade, that the child will only be able to take advantage of the State's school system for eight years that many who gave up the school course at the sixth grade knowing that they can not graduate from the University or the high school, would continue to the eighth grade, in order to take advantage of the practical and valuable self support training, which would characterize such an eighth year course and your committee further feels that if a child, who having reached this determination should then conclude to take four years more that the fact that he specialized in the sixth, seventh and eight years on some practical self supporting course of study would not be a deterrent to him in going on.

Your committee finds that in most instances the work of the first eight years is what is generally known as cultural and this is largely true of studies of the first twelve years, yet your committee can not conceive why stenography is not as cultural as algebra, although it acknowledges that instruction in stenography and the other commercial courses which accompany it is more expensive to the State than is instruction in algebra. This is true for several reasons. In the first place the class in such self supporting courses must be smaller, equipment is more expensive and teachers' salaries higher. In general, along this line your committee feels that there is much to be done in the future forward development of public education. It acknowledges, with gratitude and full appreciation, the great service rendered

by the teachers of the State, whose only defense against not having developed already a much greater proportion of self supporting education is that the State has not yet been educated itself to the advisability of expending more money for this more expensive sort of education.

EXECUTIVE MANAGEMENT.

There is undoubtedly much ground for improvement in the business administration of the Illinois public school system. There should be a centralization of authority. Such conditions for example, which now exist in which there are two standards of high schools, speak volumes to one who seeks inefficiency in our system.

Your committee does not, however, find anything in the Constitution of 1870 which occasions this unfortunate condition and believes that such kinks will be ironed out as public opinion demands more and more from the authorities in charge of our educational work a higher efficiency in the product developed. In general, in criticism of the public school system, as it exists, it is the feeling of your committee that the State can not afford to permit the child to drift away from the school system in an unprepared state, regardless of age; that the child should be bound to the school system until the highest possible quality of self supporting ability has been developed; that the point of release from the compulsory system should be measured by attainment rather than by the age of the pupil, and that if the economic conditions surrounding the family are such that the child must be withdrawn before such development is complete that the State should come to the rescue of the child or the family to such an extent as is necessary to retain the child until a self-supporting ability has been developed.

Your committee, however, knows the many broad decisions of the courts on the present wording in the Constitution regarding the public schools and reincorporates that wording with the definite understanding that it recommends no change for fear that limitations may result and that it urges the utmost forward development to the end that every child should receive a good preparation for self-support.

SPECIAL CLASSES.

Your committee has given grave consideration to that special group of children, who because of physical, mental or economic reasons may not take advantage of the open door of the school house. The most common classification of these groups are the dependents, the delinquents and deficient. Nothing is said in the Constitution of 1870 about these groups. The State has, however, in the past assumed the responsibility of foster father over the delinquent and deficient types as a general rule. Of course it must be admitted that deficiency is a relative term. A certain child might be regarded by one critic as deficient and by another as merely sub-normal. The State has treated, and treated well, the blind, the deaf and dumb and those declared delinquent by process of law. We find, however, that the State has been derelict in that class of children, whose only fault lies in poverty and orphanage. Outside of provisions for the children of soldiers and others who might be included in the institution built for that purpose, the State has seemingly adopted the policy that the church is the logical foster father of the child. With this position your committee does not agree. Your committee feels that the State can not afford to allow a child to grow up in ignorance or viciousness simply because, through economic reasons, it is not permitted to take advantage of the school system proffered under the first general principle of article VIII of the Constitution of 1870. Your committee feels that the State should see to it that every child is developed to the best possible degree, even though poverty should prevent the ordinary course being followed. With this in mind your Committee has added to section 1 of article VIII a sentence directing the General Assembly to give such special consideration for the care and education of those children as may from time to time be necessary. Your attention is directed to the wording used in this connection. The expression "other children" gives the General Assembly, we believe a mandate, stronger than that in the old section of article VIII to do whatever needs to be done to make good self-supporting citizens out

of the children of the State of Illinois. It is a well recognized principle of education that the subnormal child should have special educational treatment, as is also true of delinquents, dependents and deficient. I have in mind a school in Cleveland, Ohio, in which all children, who by the seventh year of their school course, had fallen at least two years behind the regular course, were given special consideration in a specialized school and by the introduction of the four-hour-on and four-hour-off system of industrial education as a general average received their high school diplomas as soon as those whom six years before they had left two years ahead of them. The thought of play ground development and the broadening of the influence of the school in the home will, we believe, be developed under the sentence we have added. Teachers of consequence, who have been before the committee, have urged that the school period of the child should cover every hour of every day in the year, that it is a mistake for the child to leave the school house in the afternoon to go home to sordid, unhealthful, depressing and sometimes vicious environments, which tend to destroy during the off hours the progress made by the teacher during the school hours.

Your committee feels that no money has been wasted along this line and that we are merely on the threshold of a great future in this important regard.

SECTARIAN CARE OF DEPENDENTS.

Your committee was not able to agree unanimously about the question of the use of State funds in certain instances in assisting sectarian institutions in the care of dependent children. Your committee does agree, however, that the adoption of the new section proposed in section 1 of article VIII when carried into effect, will so protect the dependent children of the State in the future that the question raised in the minority report of one member of the committee ceases to be strictly an educational question and becomes more one of State policy. Your committee feels that the dependent children of the State will be saved in the years to come if the sentence we have added to section 1 becomes a part of the Constitution of 1920 regardless of what position the Convention may see fit to take on the question as to whether State funds should go to support children placed in orphanages under sectarian control.

In conclusion, your committee would call attention to the great injustice done our children by the overcrowded school room and the failure to pay adequate salaries to teachers. No teacher may do justice to forty children sitting in front of her at a time yet the fact is that forty is near the average class in the cities of Illinois. The more advanced educators feel that if the class were ten in number, the difference in cost would be made up by greater efficiency. The only reason why the Illinois schools permit forty children in a class is generally failure of the school authorities to provide sufficient funds to do better.

Let us hope that the General Assembly of the State in the future and the various school boards and the various districts of the State may be led to see the advisability of a very material increase in school revenue; that they may see the advisability of operating this great school plant costing millions of dollars eleven months in the year instead of nine, and that they may provide funds by which teachers may not only be adequately paid and the best talent of the State induced into this most honorable vocation but that school facilities and the number of teachers be so increased that the number of children in each class may be more nearly such a number as may be properly served.

Your committee congratulates the State upon the great value in service of the Illinois public school system. It offers these criticisms in the kindest spirit and with due appreciation of the sacrifice of the service these men and women have given to make better citizens of our children, and closes with a hope and a prayer that the day may soon come in Illinois when every

child may have the most precious inherent right fulfilled, namely, the best development possible for useful, self-supporting good citizenship.

RODNEY H. BRANDON,
MICHAEL IARUSSI,
WM. S. GRAY,
WM. H. BECKMAN,
HENRY M. DUNLAP,
GEORGE A. BARR,
EDWARD CORCORAN.

THE PRESIDENT. The recital of facts will be printed in the proceedings of the Convention.

Mr. DUNLAP (Champaign). The Committee on Agriculture desires to make a report.

REPORT OF COMMITTEE ON AGRICULTURE.

SPRINGFIELD, ILLINOIS, April, 1920.

To the Honorable, the Delegates of the Constitutional Convention:

Your Committee on Agriculture having given due consideration to the problem of land credits in the State of Illinois, reports a proposal, being Proposal No. 361, a proposal in relation to land credits, and recommends that said Proposal No. 361 be placed on the General Orders.

H. M. DUNLAP,
WM. S. GRAY,
LAWRENCE C. JOHNSON,
GUY L. SHAW,
J. MACK TANNER,
SLYVESTER J. GEE,
CHAS. V. PARKER,
ALVIN WARREN,
WILLIAM STEWART,
F. R. DOVE,
WILLIAM H. CRUDEN,
H. W. MEINERT,

Committee.

Whereupon the Convention further proceeded upon the order of reports of select committees, introduction, first and second reading of proposals, motions and resolutions.

Mr. MOORE (Macon). I would like to present to the Convention a petition from the citizens of Logan county on the matter of reading the Bible in the public schools, and ask that it be referred to the proper committee.

THE PRESIDENT. Without objection the petition submitted by Delegate Moore relative to the reading of the Bible in the public schools will be referred to the Committee on Bill of Rights.

Whereupon the Convention further proceeded upon the order of unfinished business, general orders of the day.

THE PRESIDENT. I would state for the information of the Convention that the Convention was not sooner convened for the reason that we desired to have on the desks of the delegates this morning a copy of the proposal offered by the Committee on Public Works and Improvements as it read when amended on yesterday. The Chair is advised that copies are on the way from the printer to the Convention Hall and will be here in a few moments. The Convention is now ready to resolve itself into the Committee of the Whole for the purpose of the further hearing of the report of the Committee on Public Works and Improvements. The Chair designates Delegate Wilson of Cook county as chairman of the Committee of the Whole. (Applause.)

(Chairman Wilson presiding.)

CHAIRMAN WILSON. The committee will please be in order.

Mr. STEWART (Edgar). The proposal that we are taking up this morning is proposal No. 354, as reported out by the Committee on Public Improvements that we had up yesterday. This is substitute proposal 47 that we take up this morning, as amended on yesterday. It is a question

it seems to me of this delegation, this Convention, whether we should trust the legislature of this State, its Executive, and so forth, or whether we should not. Now, we have with us this morning Mr. Bennett, Commissioner of Public Works, and I will ask unanimous consent of this Convention that we hear from Mr. Bennett, as he can give you an explanation probably as well as any other man in this State on this subject, as he has been connected with this canal, manager of this canal, and is so connected at present. Mr. Chairman, I ask the unanimous consent of this Convention that Mr. Bennett be heard on this question.

CHAIRMAN WILSON. What is the pleasure of the committee?

VOICES. Leave, leave.

Mr. BENNETT. Mr. Chairman and Gentlemen of the Convention: I think probably it is in the minds of some of you that it would clarify the situation if I made a brief reference to the history of the canal, and then touch upon the question of the lands and further tell you what the proposed waterway we are now constructing will consist of. As most of you know, much of what I say will be familiar to many of those I see before me. In 1822 Congress set aside certain lands consisting of a right-of-way for the canal and a strip ninety feet on either side from Chicago to the Illinois River. For the purpose of aiding the State in the cost of the construction of the canal, in 1827 Congress granted to the State the title to alternate sections of land embraced within an area of five miles on either side of the canal. Since the opening of the Sanitary District Canal and the discontinuance of the operation of the old Illinois and Michigan Canal between Lockport and Chicago, several owners of land in the even numbered sections through which the old channel and the ninety foot strip extended have made claim to the ownership of the canal bed and the ninety foot strip on either side. The attorneys for the State contend there has been no abandonment and that the State owns the old canal bed and the ninety foot strip on either side, and this question is now being litigated in the United States Court, with every prospect in favor of the State's contention. The canal has been operated and maintained out of proceeds of the sale of land and from tolls and rents. The cost of construction was paid out of the sale of lands. From Chicago to Lockport, as you know, the Sanitary District has built a new channel and the old channel has not been used for some years, and the property owners in these even sections contend we have abandoned the canal and therefore that the title reverts to them. The land is valuable land and it is the title to this valuable land we are contesting in the courts. We need much of this old right-of-way for dockage and storage in connection with the waterway. The lands still owned consist of a small piece of land in the City of Chicago and various pieces at the various towns along the canal, together with certain lands of nominal value on the Little Wabash River. The total value of all the lands now held by the State, as appraised by our department, remaining unsold amounts to one hundred sixty-four thousand dollars. These lands, of which one hundred and thirteen thousand dollars worth are in Chicago, consist of a piece of land which lies about the point where the old canal leaves the Chicago River near the turning basin east of Ashland avenue. That is the main holding in the City of Chicago and substantially the only holding of great value in the City of Chicago. In Lockport we have thirty-four thousand dollars worth of land; in Joliet ten thousand two hundred forty dollars worth; in New Haven two hundred seventy dollars worth; in DuPage, now known as Channahon, four hundred and fifty dollars worth; in Kankakee four hundred and eight dollars worth; in Morris two hundred dollars worth; in Ottawa ten thousand four hundred and sixty dollars worth; in LaSalle two thousand one hundred and fifty dollars worth; Peru, one thousand dollars worth; the town of Henry, eight hundred dollars worth; and in Banner in Fulton county two hundred and forty dollars worth; making a total, as I said, of one hundred and sixty-four thousand and some dollars. Now on some of these latter items along the canal are buildings which are used and therefore not subject to sale, and in fact there is no land I know of at the present time which is

offered for sale by the department. The new development which we are now working upon, namely, the Illinois Waterway, will commence at Lockport and end at Utica. For the purpose of defraying the cost of that waterway, the constitutional amendment was adopted authorizing the issuance of twenty million dollars worth of bonds and voted upon by the people. In the construction of this waterway we will have an eight foot depth in the channel except over rocks where the depth will be ten feet, this to allow for the settlement of dirt as it floats down so it may be easily excavated and fourteen feet of depth on the mitre sills, that is where the boats pass into and from the locks. The locks will be one hundred ten feet wide and six hundred feet long, in keeping with the modern practice of this day. In the development of this waterway, there will be developed a water power from thirty-five thousand to fifty thousand horse power, worth all the way from one million to one million and a half of dollars a year. In a suit between the Economy Light and Power Company and the State of Illinois, the Supreme Court of Illinois held that the DesPlaines River through which the waterway runs, was not a navigable stream. The government, however, brought suit in the United States Court, and Judge Landis held it to be a navigable stream. It was later appealed to the Court of Appeals, which court sustained Judge Landis' opinion; it is now pending in the Supreme Court of the United States. The decision in the Federal Court was based upon an early decision made in the case of the Fox River of Wisconsin where the Supreme Court of the United States held that a river which was navigable for the character of craft in vogue at the time of the adoption of the Constitution, the Virginia statue of 1787, was always navigable. That was immaterial what change was made in the character of boats, if it was navigable at the time that reservation was made, it remained a navigable stream in law, and there is every probability that the Supreme Court of the United States will hold the DesPlaines River is a navigable stream with the law. All along this stream there are diverse and sundry ownerships of riparian rights, which it is necessary for the State to take care of in case of overflow which will be occasioned by the erection of dams and sites for dams, so we are now confronted either by a settlement with these owners or of a purchase outright of their rights, or a condemnation of those rights in order that our waterway may proceed. The engineering force is now completing its surveys. Up to the time we took this up there was no detailed engineering work done. There were simply a sort of tentative plans. Now, we are at work on the actual soundings for the dam surveys where the waters will be overflowed and we are in the midst of a time when everything is at high cost. We are very reluctant to proceed at these high cost prices, but we do intend to go to a point where we will make this waterway a sure thing before the end of this administration. We are limited to the twenty million dollars of bonds. Under the estimate in normal times, that would be ample to complete this waterway, and it may be ample still. Nevertheless, we are looking out for a possibility, not a probability, but a possibility of our money not reaching to finish building this waterway which will return this enormous sum of money to the State, and therefore, I am speaking now to the point of eliminating from the Constitution the old provision that the State should not lend its aid to canals and waterways. Under the bond issue under which we are working it was necessary first to amend the Constitution and then to have the people vote upon the bonds. If we are to be left with our internal improvements so we can handle them in a judicious and sensible way, and not be handicapped at every turn of the road, it seems to me that if the Constitution simply limits the issuance of bonds beyond a certain amount, with the approval of the people, that you are safeguarding the matter, and you are leaving the legislature and the people free without an amendment to the Constitution, where they can proceed in an orderly manner to carry out such improvements as may be thought best to enter upon.

Now, we have hoped and we still expect to have the government assist in the expenses of this waterway, and at the same time we cannot control Congress, so it would seem to be foolhardy to leave this matter tied, in case

a contingency shall arise with such an enterprise as this on hand, and not be able to complete it.

There is another feature. We used the word "waterways," "the State shall not lend its aid to the construction of waterways"—there are drainage systems in this State that may require legislation. I would not advocate the State spending money to put in drainage districts at this time, but they should be able to appropriate money enough to make surveys and make these drainage districts in an orderly fashion, and to control them. For instance, a drainage district will be started in one county and the water will be thrown onto some other fellow's land. We get complaints almost every day from innocent sufferers from drainage districts built in a haphazard way. In other words, the drainage system of this State should be surveyed and constructed on the general plan laid out to which all drainage districts must conform in order to protect the innocent people and reclaim the land of those districts, which is the essential thing. To enable the State to make those surveys with a view of making plans a system of drainage districts may be built at the expense of the property benefitted and not at the expense of the State. I think the legislature should be left in shape to provide moneys at least sufficient to gather the data and information necessary to plan and map out those districts. It is farthest from my mind that the Illinois waterway will require any further appropriations from the State for the purposes of completion, yet in view of all we have gone through in the last few years in public works, I am bound to admit that contingencies may arise that will make it necessary for the legislature to give additional relief in these matters. When the original provision was made in the Constitution, that the credit of the State should not be used in the aid of railroads and canals, it was very clear in my mind that did not mean the canal owned by the State of Illinois, but was intended to refer to the various canal schemes that were then tried to be exploited and the various railroad schemes that were being exploited all over the country, but the Supreme Court has guessed the other way, and they said we could not spend money to maintain even the Illinois and Michigan canal except out of the income derived from the canal. This canal will be helpful in the building of a new canal, in the transportation of the different material, and it is also of value in transporting a considerable commerce today.

We have been going along and we had a nice little saving of a few thousand dollars on the right side of the ledger. The other day we had this storm and a little dam fifty feet wide went out at Channahon and we find ourselves without money to restore that dam. We find the banks of the canal gone out in another place and no money to restore it, because the lands upon which the old Illinois and Michigan canal depended have been sold, and the commerce by reason of the action of the railroads and their discrimination in rates against the canal have pretty near put the old canal out of business. I am thankful to say they will not be able to do that with the new canal because suitable terminals will be provided, and that condition will not again arise.

To meet this condition the legislature should be left free to meet them, and so far as bonds are concerned, with the additional safeguard of the vote of the people it seems to me the State is safe in leaving out the old provision in the Constitution. I thank you.

Mr. SHANAHAN (Cook). Mr. Chairman, I would like to ask Mr. Bennett a few questions; Mr. Bennett, you say that the value of the lands now owned by the Illinois and Michigan Canal and their successors amounts to one hundred and sixty-four thousand dollars, including the piece of land at the head of the canal at Bridgeport?

Mr. BENNETT. That is saleable land.

Mr. SHANAHAN (Cook). Under the present Constitution the department with the approval of the Governor, has the right to sell that land without a vote of the people and without any legislation?

Mr. BENNETT. Yes, it has.

Mr. SHANAHAN (Cook). So actually the department could sell all that land?

Mr. BENNETT. Yes. I will state this, one piece of land in Chicago was sold but was not carried out; as soon as we discovered it the Department took steps to get it back, because we recognized it was a very important matter to the canal.

Mr. SHANAHAN (Cook). At the present time there are other parcels of land in Chicago except that piece of land at the head of the canal?

Mr. BENNETT. Those two pieces that are described. .

Mr. SHANAHAN (Cook). Unless it might be at the intersection of streets that are now used as little parks?

Mr. BENNETT. A few little parks.

Mr. SHANAHAN (Cook). No land that can be sold in the City of Chicago?

Mr. BENNETT. No.

Mr. SHANAHAN (Cook). This piece of land at the head of the canal at Bridgeport is useful and will be used for terminal purposes when the new waterway is in operation?

Mr. BENNETT. Yes.

Mr. SHANAHAN (Cook). And there is no intention to sell that land?

Mr. BENNETT. None whatever.

Mr. SHANAHAN (Cook). It is more valuable to the State of Illinois?

Mr. BENNETT. Yes, sir.

Mr. SHANAHAN (Cook). I notice in the report there are a number of pieces of land throughout the State, farm land, that could be disposed of but never has been; why? Because there is no sale for them?

Mr. BENNETT. That I don't know. We have discovered some pieces where the title was not entirely perfected and I am now giving my attention to that matter. I do not know why they have not been sold. We have some lands which I understand are saleable if we can perfect our title.

Mr. SHANAHAN (Cook). I want to call to the attention of the members of the Convention, at the present time if the department recommended and the Governor approved, all this land could be sold without a vote of the people or without legislation by the General Assembly.

Mr. BENNETT. Yes, sir.

Mr. HULL (Cook). I would like to ask just a question or two. You are familiar with the proposal, are you, Mr. Bennett?

Mr. BENNETT. Yes, sir.

Mr. HULL (Cook). If under the present law it would be possible to sell this land valued at one hundred and sixty-four thousand dollars, more or less, why is it necessary to put in a provision in this proposal that lands not needed may be sold?

Mr. BENNETT. If you will read the first part of your report you see that lands cannot be sold; we have two classes of land.

Mr. HULL (Cook). Certain lands cannot be sold now, can they?

Mr. BENNETT. No.

Mr. HULL (Cook). They cannot sell the old Illinois and Michigan Canal, can they?

Mr. BENNETT. No.

Mr. HULL (Cook). But you can sell the other lands not needed, and all this does is to repeat that statement of the law?

Mr. BENNETT. Yes, but the language of the first part unless explained by the proviso might lead to a misconception of the law, as I understand it. Mr. Woodward is probably the best posted man on these laws in the State, and I feel it would be very beneficial to have him explain those points. He is very reluctant to say anything, but I think the Convention could get information from him if you would pump him and ask him to tell what he knows about it.

Mr. REVELL (Cook). I would like to ask the gentleman a number of questions, Mr. Chairman. How much work is being done now on the new waterway?

Mr. BENNETT. We have a large engineering force working on the final plans; that is the detailed plans for dams; we have three dams that

are now being put into final engineering shape, and we are drawing specifications for the letting of the contracts.

Mr. REVELL (Cook). You deem it essential that this work be completed, as soon as possible.

Mr. BENNETT. We deem it essential to have the plans completed and enough of the work started in actual construction to make its location a finality. There has been a change from one location to another throughout a term of years, and we have got now what we consider a sane and sensible plan; while the costs are high now, we want to start enough of the work to assure final approval of these plans. With that in view we are trying to get ready to let contracts for one of the dams and locks early in the spring, probably by the first of July.

Mr. REVELL (Cook). In other words, you do not consider it wise to delay the actual physical laboring operations of the new waterway until the possibility of a change in labor conditions?

Mr. BENNETT. I do believe in delaying the bulk of it, but I do think there is another element to be considered, that of having this fixed and started, and to that extent I think we should go ahead now. We are pushing to the utmost the engineering work getting ready for the letting of the work on one dam.

Mr. TRAUTMANN (St. Clair). Mr. Bennett, has the State of Illinois secured the necessary consent from the Federal government that would justify your department in going ahead with your work?

Mr. BENNETT. Yes, sir.

Mr. MICHAL (Cook). This two hundred and twenty-five feet strip running from Ashland avenue up to the city limits, that would be about Seventy-second avenue, that is about the most valuable piece of manufacturing property and most ideally located property in the City of Chicago, isn't it?

Mr. BENNETT. It is valuable, I could not say it is the most valuable.

Mr. MICHAL (Cook). It has all the railroad facilities there?

Mr. BENNETT. Yes.

Mr. MICHAL (Cook). Within one hundred yards parallel with the land is the drainage canal?

Mr. BENNETT. Yes.

Mr. MICHAL (Cook). Has the State received any offers for the purchase of any portion of that strip from any individual or corporation that you know of?

Mr. BENNETT. No, we could not sell it anyway.

Mr. MICHAL (Cook). Don't you think it would relieve the situation considerably if this strip of two hundred and twenty-five feet in width could be placed upon the market by the State?

Mr. BENNETT. I think it would be a vital mistake to do it.

Mr. MICHAL (Cook). You think so?

Mr. BENNETT. Yes, it is needed in connection with the waterways.

Mr. FIFER (McLean). When did the State of Illinois secure the permit of the Federal government to use the water of Lake Michigan to the extent that would justify you in going ahead with this deep waterway?

Mr. BENNETT. When did it get it?

Mr. FIFER (McLean). Yes, when did it get it?

Mr. BENNETT. I think we got our amended permit about thirty days ago.

Mr. FIFER (McLean). Thirty days ago?

Mr. BENNETT. Yes, sir.

Mr. FIFER (McLean). What was the extent of the permit?

Mr. BENNETT. It gives us the right to use all water that comes down the canal.

Mr. FIFER (McLean). All the water that you want?

Mr. BENNETT. All the water that comes down the canal; we start at Lockport, we get all the water that comes there.

Mr. FIFER (McLean). They permit you to use all the water that comes to Lockport?

Mr. BENNETT. Yes, sir.

Mr. FIFER (McLean). But will they allow you to take any more of the water from Lake Michigan than what already comes from Lake Michigan to Lockport?

Mr. BENNETT. That remains to be seen, that is subject to Congressional action.

Mr. FIFER (McLean). As a matter of fact, they have not permitted you, have they—

Mr. BENNETT. On the basis of the water that is coming there now.

Mr. FIFER (McLean). I am not asking about the quantity; I say they have not permitted you to take any more water from Lake Michigan than what already comes from Lake Michigan to Lockport, have they?

Mr. BENNETT. No, sir.

Mr. FIFER (McLean). That is all the permission you have got?

Mr. BENNETT. Yes, sir.

Mr. FIFER (McLean). Now, for many years the government at Washington has steadily refused to allow you to take any more water from Lake Michigan, haven't they?

Mr. BENNETT. We don't need any more.

Mr. FIFER (McLean). Not for a drainage canal?

Mr. BENNETT. We don't need any more for a ship canal.

Mr. FIFER (McLean). That is your opinion?

Mr. BENNETT. No, it is a fact.

Mr. FIFER (McLean). How do you know it is a fact?

Mr. BENNETT. Based on engineering data.

Mr. FIFER (McLean). It is just simply your opinion, isn't it?

Mr. BENNETT. No, sir, it is not my opinion. It is the opinion of the engineer of the waterway.

Mr. FIFER (McLean). Soon after this deep waterway began to be talked of and you commenced to take water out of Lake Michigan, the cities around Lake Michigan objected, didn't they?

Mr. BENNETT. I didn't get that question.

Mr. FIFER (McLean). They said that you were injuring their harbors?

Mr. BENNETT. You are referring to the action of the Sanitary District?

Mr. FIFER (McLean). Didn't the cities on Lake Michigan, Milwaukee and the cities on the other side of Lake Michigan protest to the war department at Washington and insist that no more water should be taken from Lake Michigan?

Mr. BENNETT. The power interests down at Niagara Falls worked up agitation among the various cities and they tried to take the position that we should not have any more water, but we are still getting it.

Mr. FIFER (McLean). Didn't they send a delegation to Washington and protest to the War Department?

Mr. BENNETT. I think they did, but I do not know of my own knowledge.

Mr. FIFER (McLean). They succeeded, didn't they?

Mr. BENNETT. In what respect?

Mr. FIFER (McLean). In carrying out their point, that you should not take any more water from Lake Michigan?

Mr. BENNETT. The water is still running.

Mr. FIFER (McLean). Have not the officials of Illinois been insisting to the War Department for many years now, to grant permission to take more water from Lake Michigan?

Mr. BENNETT. The flow is just as it has been. There has been no action by Congress.

Mr. FIFER (McLean). Have not the officials from Illinois gone to Washington repeatedly and labored with the War Department and argued the question, and haven't they had their Congressmen do the same thing many times?

Mr. BENNETT. The sanitary districts you referred to?

Mr. FIFER (McLean). Yes.

Mr. BENNETT. Yes.

Mr. FIFER (McLean). Finally, a few days ago you got permission from the War Department to use all the water that is now and has been for some time going from Lake Michigan to Lockport.

Mr. BENNETT. Yes, sir.

Mr. FIFER (McLean). And on that you base your opinion that that would be ample for a deep waterway?

Mr. BENNETT. I base my opinion on the information given by the engineer and his computations of what is necessary for a waterway.

Mr. FIFER (McLean). What property has the State of Illinois along that waterway in the way of water development to be used for that purpose?

Mr. BENNETT. It has some rights at Brandon Road, it has some rights at Starved Rock, it has some rights below Dresden Island.

Mr. FIFER (McLean). The State did not dig that ditch in the first place?

Mr. BENNETT. Which ditch?

Mr. FIFER (McLean). It was done by a sanitary district.

Mr. BENNETT. You mean from Chicago to Lockport?

Mr. FIFER (McLean). The present ditch that carries off the sewage of Chicago?

Mr. BENNETT. Yes, sir.

Mr. FIFER (McLean). It was incorporated as a sanitary district, wasn't it?

Mr. BENNETT. Yes, sir.

Mr. FIFER (McLean). And they dug the ditch, that sanitary district, isn't that true?

Mr. BENNETT. Yes, sir.

Mr. FIFER (McLean). You know the cost of that improvement to the sanitary district?

Mr. BENNETT. It cost about thirty-two million dollars, the original cost.

Mr. FIFER (McLean). Hasn't it cost more than that, that is, the incidentals?

Mr. BENNETT. You put on all the frills, the things done since, and it runs pretty nearly double that.

Mr. FIFER (McLean). When was it that Illinois put its hand into this drainage ditch that was built in the first place to carry off the sewage of Chicago?

Mr. BENNETT. We have nothing to do with that now. We start at Lockport, at the end of the Sanitary Canal.

Mr. FIFER (McLean). Now, the amendment to the Constitution that permitted the legislature to appropriate this twenty million dollars, was passed in 1908 wasn't it?

Mr. BENNETT. I think so, yes, sir.

Mr. FIFER (McLean). And then under that there was a legislative enactment providing for the expenditure and providing for a deep waterway from Lockport to Venice on the Illinois River, a distance of about fifty miles, fourteen foot ditch?

Mr. BENNETT. Yes, sir.

Mr. FIFER (McLean). Have you ever thought if you got your deep waterway fourteen feet deep along there and you would bring an ocean-going ship down the canal which would be fourteen feet deep, what you would do with it when you got to the Illinois River?

Mr. BENNETT. That is the reason we changed it to eight feet so it would fit in with the depth of the Illinois River?

Mr. FIFER (McLean). Would it be feasible for ocean-going ships only drawing eight feet of water?

Mr. BENNETT. No, sir.

Mr. FIFER (McLean). Is it not your experience and knowledge that freight carrying ships draw from ten to twenty feet of water?

Mr. BENNETT. More than that, most of them.

Mr. FIFER (McLean). Then ocean-going ships drawing eight feet of water, how would you get them down the Illinois River in low water?

Mr. BENNETT. It is not proposed to bring ocean-going ships down the canal.

Mr. FIFER (McLean). You would simply have the State abandon its old canal and use this waterway, the drainage ditch from Chicago for a new canal, wouldn't you, serving the same points within the State of Illinois?

Mr. BENNETT. I did not quite get that question.

Mr. FIFER (McLean). You say you do not propose to take ocean-going ships down the Illinois River, did you say that?

Mr. BENNETT. I did, sir.

Mr. FIFER (McLean). If you are not going to use ocean-going ships to go down the Illinois River, the purpose of this ditch, this improvement would be simply to make a canal to serve Illinois the same as the old canal has served it?

Mr. BENNETT. No, sir.

Mr. FIFER (McLean). What was the purpose in abandoning the old canal, to help Chicago with its ditch and make a new canal?

Mr. REVELL (Cook). The speaker in the box fails to realize, as many of them do, these are not conversational bouts between the speaker and the one asking the questions, but it is important to maintain the interests of the entire Convention. I think the Chair occasionally should ask the various speakers to speak up louder. I find it hard to hear at this point, and I am sure those farther behind me are not able to hear at all.

Mr. FIFER (McLean). Mr. Chairman, this whole question about water power development and about the depth of the canal is all affected by the proposal now under discussion by this Convention, and I think it is vitally important to know before we authorize the legislature of the State, the General Assembly to expend any more money and we should know what is proposed to do with this money and where the benefit is to flow to our State. Now, it started out as a sanitary district to drain the sewage from Chicago, and it turns out now that Illinois has got its hands in it, but not only that, but it is proposed, having a foot in it, to put the other foot in, and recognize the whole business by the new Constitution. I am trying to develop that fact so these gentlemen can vote intelligently on this question.

Mr. REVELL (Cook). It was not my purpose to criticize, it was simply drawing the Chair's attention to the fact it was difficult to hear.

Mr. FIFER (McLean). Are there liable to be any overflows from this proposed deep waterway of which you speak?

Mr. BENNETT. No more than exists now.

Mr. FIFER (McLean). What are the overflows just now?

Mr. BENNETT. That is a very large question.

Mr. FIFER (McLean). But it is extensive, isn't it?

Mr. BENNETT. In places, yes, sir.

Mr. FIFER (McLean). Who is liable for the damage of those overflows?

Mr. BENNETT. I think the Lord is responsible for it. It comes from floods, it does not come from the waterway.

Mr. FIFER (McLean). The agency, the individual or State or corporation that causes the overflow, is liable, isn't it?

Mr. BENNETT. Yes, sir.

Mr. FIFER (McLean). So if the State occasions the overflow, the State is liable?

Mr. BENNETT. The State will not occasion the overflow, this waterway will not occasion any overflows.

Mr. FIFER (McLean). Somebody will be liable. How do you know the State will not be liable if it digs a ditch? As a poor lawyer, I would say the State would be liable if it occasions the overflow. In regard to this water power, have we any real estate, have we purchased any in reference to that?

Mr. BENNETT. Not as yet, no. We have some we owned originally, we have some rights at Brandon Road, as I stated to you, at Dresden, and we have rights at Starved Rock.

Mr. FIFER (McLean). What I want to know, Mr. Bennett, is this, whether the State of Illinois has in contemplation the building of water

power development along that ditch, and if so, what preparations have they made for that development in the way of purchasing land?

Mr. BENNETT. This development on the DesPlaines River, about a sixty foot fall on the DesPlaines River.

Mr. FIFER (McLean). I am talking about real estate, where they would build machinery, it takes machinery to run a canal; have they bought any land for that purpose?

Mr. BENNETT. Not as yet, we propose to.

Mr. FIFER (McLean). They propose to buy land?

Mr. BENNETT. Yes, sir.

Mr. FIFER (McLean). Have they got the money from the State?

Mr. BENNETT. We have the money to do it with.

Mr. FIFER (McLean). Where did you get it?

Mr. BENNETT. When we sell bonds.

Mr. FIFER (McLean). You have not sold the bonds yet?

Mr. BENNETT. We are proceeding with good judgment, in my opinion.

Mr. FIFER (McLean). The bonds are in the State treasury, are they?

Mr. BENNETT. No, sir, they have not been issued.

Mr. FIFER (McLean). They are waiting on the authorities at Washington and the authorities have done what you suggested, and no more?

Mr. BENNETT. We have the full right to build this waterway, the State has the right inherently to build it.

Mr. FIFER (McLean). Now, I do not understand whether the State has already invested large sums of money or any sums of money in the purchase of adjacent lands to that drainage ditch for the purpose of developing water power, making electricity?

Mr. BENNETT. We have not yet, but we propose in the very near future to condemn or purchase such land as is necessary on the banks of the DesPlaines and Illinois Rivers to carry out the enactment of the legislature of last winter.

Mr. FIFER (McLean). You have not done it yet?

Mr. BENNETT. No, sir.

Mr. TAFF (Fulton). The original plan was for a fourteen foot channel.

Mr. BENNETT. Fourteen foot channel, yes, sir.

Mr. TAFF (Fulton). That was the plan upon which the twenty million dollar bond issue was submitted, as I remember it?

Mr. BENNETT. That was the plan in contemplation.

Mr. TAFF (Fulton). The voters were given to understand throughout the State of Illinois that a fourteen foot channel would be constructed?

Mr. BENNETT. The Act was passed for a deep waterway, and the bonds were voted. I do not know what the propaganda was put out.

Mr. TAFF (Fulton). You were in the State of Illinois, at that time, I assume?

Mr. BENNETT. I was, sir.

Mr. TAFF (Fulton). When was the change made from a fourteen foot channel to a seven foot channel?

Mr. BENNETT. It was not made, it was made to an eight foot. The depth of the Mississippi River is nine feet, the contemplated depth; the Illinois River is eight feet and we consider it would be very foolish to spend the extra money to dig down to a fourteen foot depth, and accordingly the locks are made where the heavy masonry goes in, it leaves fourteen feet over the mitre sills, or the bottom of the locks, so in the future if it were thought wise to deepen to a fourteen foot channel, it might be done.

Mr. TAFF (Fulton). Would the difference in the depth make any difference in the amount of traffic?

Mr. BENNETT. No, we would have just as much traffic with an eight foot depth as fourteen.

Mr. TAFF (Fulton). As I understand, there was no intention of making such a channel as to accommodate ocean traffic.

Mr. BENNETT. The engineers did not consider it feasible.

Mr. TAFF (Fulton). As I remember your statement, you said the income would be from the power, one million to one million and a half per year.

Mr. BENNETT. Yes, sir.

Mr. TAFF (Fulton). Do you mean that is gross or net income?

Mr. BENNETT. Net income.

Mr. TAFF (Fulton). After having provided for all the operating expenses of the canal?

Mr. BENNETT. Yes, sir.

Mr. TRAUTMANN (St. Clair). As I understand you, Mr. Bennett, you intend to connect with the drainage canal at Lockport?

Mr. BENNETT. Yes, sir.

Mr. TRAUTMANN (St. Clair). And use the water that comes through the drainage canal?

Mr. BENNETT. Yes, sir.

Mr. TRAUTMANN (St. Clair). Is there any reason why the State of Illinois should not sell the lands of the Illinois and Michigan Canal from Lockport to Chicago, would not that part be abandoned if you use the drainage canal?

Mr. BENNETT. Some portions of that probably, but not all. In Chicago they will need it for dockage and storage purposes and there will be much needed in connection with this waterway and it is very unwise to think of selling it until that is demonstrated.

Mr. TRAUTMANN (St. Clair). This land in Chicago that is along the Illinois and Michigan Canal adjoins the lands of the drainage district, or is there some land in between?

Mr. BENNETT. Some lands in between in some places.

Mr. GALE (Knox). You say the twenty million dollars of bonds has been authorized by a vote of the people, but as a matter of fact they never have been issued, is that right?

Mr. BENNETT. Yes, sir.

Mr. GALE (Knox). Is it proposed to get the money for this development that you are talking about from the sale of those bonds?

Mr. BENNETT. It is.

Mr. GALE (Knox). Is that money to be used for the purpose of building the waterway or for the purpose of developing the power?

Mr. BENNETT. Both.

Mr. GALE (Knox). How far will that money build a canal and at the same time provide for ample development of water power?

Mr. BENNETT. It will build the waterway and a portion of the water-power. I cannot tell you the details, but it will require more money to finish the water power completely. Of course, there is the other alternative, the leasing of water power, that is, the leasing of water; that is contemplated in the Act passed last winter. We may either actually build these works or simply lease this power upon certain restrictions contained in that act.

Mr. GALE (Knox). That power will come at the places where the locks are located?

Mr. BENNETT. In the dams.

Mr. GALE (Knox). Where will those places be?

Mr. BENNETT. At Brandon Road, Dresden Island, or near there, Marseilles, and at Starved Rock.

Mr. GALE (Knox). Any further development at Lockport than what has been done by the Sanitary District?

Mr. BENNETT. That lock will be enlarged in order to allow the modern barge to pass through it.

Mr. GALE (Knox). Is there any necessity for the use of that money in the building of the canal any further so far as the drainage of Chicago is concerned, or is that already taken care of?

Mr. BENNETT. So far as the drainage of Chicago is concerned, there is nothing further required.

Mr. GALE (Knox). Does the department believe it is good business for the State of Illinois now to expend twenty million dollars on such development as that?

Mr. BENNETT. We do not propose to let contracts for this whole work at these high prices. We believe that everything that can be held up until more stable prices can be obtained, is advisable.

Mr. GALE (Knox). Is it the belief of the department and do your figures submitted by your engineers show that this twenty million dollar bond issue will provide all the revenue needed, or will the State have to furnish other money?

Mr. BENNETT. We have really expected that Congress would appropriate an additional sum and I have no doubt but that they will, and we expect to finish this waterway and to develop power there by lease or by building it ourselves within the money, and the point I am talking about today is the unforseen circumstances that might arise in case we are mistaken in our judgment.

Mr. GALE (Knox). It may possibly need more money.

Mr. BENNETT. It may, but I am not advocating any such appropriation now, and I am very hopeful we will not need it, and after the waterway is completed the income will be more than sufficient to sustain it.

Mr. DEYOUNG (Cook). You say the new waterway will connect at Lockport with the Sanitary District Channel and not with the Illinois and Michigan Canal?

Mr. BENNETT. Yes.

Mr. DEYOUNG (Cook). What are the dimensions proposed?

Mr. BENNETT. The locks will be one hundred ten feet wide, and the waterway will be from one hundred fifty to two hundred feet wide.

Mr. DEYOUNG (Cook). And eight feet deep?

Mr. BENNETT. Yes, sir.

Mr. DEYOUNG (Cook). You are taking all the water that comes from the Sanitary District Channel at Lockport? And the Sanitary District Channel as you know is about twenty-eight miles long and has a width of from one hundred sixty to two hundred feet, has it not?

Mr. BENNETT. Yes, sir.

Mr. DEYOUNG (Cook). And its depth is approximately twenty-six to twenty-eight feet?

Mr. BENNETT. Yes, sir.

Mr. DEYOUNG (Cook). So there will be more water coming to Lockport than you can possibly carry through?

Mr. BENNETT. We can take care of it.

Mr. DEYOUNG (Cook). There will be no lack of it.

Mr. BENNETT. No, sir.

Mr. DEYOUNG (Cook). The Sanitary District Channel and water that flows through it now will be ample for your purposes?

Mr. BENNETT. The only varying quantity will be the question of power, more water, more power.

Mr. DEYOUNG (Cook). And the Sanitary District Channel is now navigable, is it not?

Mr. BENNETT. Yes, sir.

Mr. DEYOUNG (Cook). When the government improves the Illinois and DesPlaines Rivers, then all this will be subject to the Federal government?

Mr. BENNETT. Yes, sir.

Mr. LOHMAN (Cook). There are at the present time a number of private corporations occupying sites along the drainage canal and other canals of this State that furnish energy competing with the drainage districts and other public corporations. In your opinion, will this proposal help the sale or condemnation of land for public use?

Mr. BENNETT. I do not quite get that question.

Mr. LOHMAN (Cook). There are at present certain private corporations that occupy sites along the drainage canal and other canals furnishing energy, light and power to the public competing with the drainage district, and other public corporations; some of these cases are now in court. Under this proposal would the people be denied the right to oust these corporations?

Mr. BENNETT. In the first place there are no private corporations operating on the canal that I know of excepting the one at Joliet where the

dam will be taken out by the State. The power is owned by the State now, and that power will be taken out. We have the power to condemn any rights of any such companies as you refer to. They may be condemned and taken over.

Mr. LOHMAN (Cook). How about the Economy Light and Power Company?

Mr. BENNETT. We have the power to condemn it. That is operated by steam now. You mean at Brandon Road?

Mr. SHANAHAN (Cook). That is at Joliet.

Mr. BENNETT. We own the Jackson Street dam, and that will be taken out. There will be competition. These other companies can come in and bid for the use of this power.

Mr. SIX (Pike). Would you have the right of condemnation if we insert this in the Constitution, if we gave a perpetual lease and adopt this proposal, would you have the right to condemn any property such as you now have the right to condemn?

Mr. BENNETT. As I have read the proposal here, it does not affect our condemnation rights at all, it has no effect on them.

Mr. SIX (Pike). I do not understand how you can condemn if you adopt this proposal.

Mr. BENNETT. Will you please read it, I have not a copy of it before me.

Mr. SIX (Pike). This gives authority to lease perpetually the site or to lease perpetually the product of any site.

Mr. BENNETT. I do not so understand it.

Mr. SIX (Pike). I can not understand the power of eminent domain would be stronger than this right conferred here.

Mr. BENNETT. This is a limitation, it does not confer power.

Mr. SHAW (Cass). You say you are making your plans for an eight foot channel?

Mr. BENNETT. Yes, sir.

Mr. SHAW (Cass). You can take care of all the water that is coming through the canal?

Mr. BENNETT. Yes.

Mr. SHAW (Cass). And that will be ample water, will it?

Mr. BENNETT. Yes.

Mr. SHAW (Cass). Are you interested in increasing the flow from Lake Michigan to Lockport through the Sanitary District Canal?

Mr. BENNETT. We are interested in a larger flow than at present authorized, but as a matter of fact there is about ten thousand feet coming down now but only forty-one hundred feet authorized. We will be quite satisfied with the ten thousand feet.

Mr. SHAW (Cass). Will you explain how you get ten thousand feet when a much smaller amount is authorized?

Mr. BENNETT. We have nothing to do with the water between Lockport and Lake Michigan.

Mr. SHAW (Cass). I understand that is your position. I thought probably you could give us some light on that question.

Mr. BENNETT. The Sanitary District has a permit for four thousand one hundred sixty-seven feet of water, but as a matter of fact there is flowing through that canal most of the time from eighty-five hundred to ten thousand feet. Now, the indications are that the government will consent to ten thousand feet; that has not been finally fixed but it is indicated that that will be the attitude of the war department when the question comes up.

Mr. SHAW (Cass). If you are getting that much now, why do you need a permit from the United States government?

Mr. BENNETT. The State of Illinois has the right to build a waterway in a navigable stream independent of the United States except only subject to such legislation on the subject as Congress has enacted. Congress has heretofore enacted a law which provides that plans for dams and waterways shall be approved by the war department. We were compelled to go to Washington and obtain the approval of our plans. The courts have held that the State is

supreme in connection with its waterways. We asked for only the approval of our plans, which we received.

Mr. SHAW (Cass). Your plan will take care of more than ten thousand feet?

Mr. BENNETT. Yes.

Mr. SHAW (Cass). How much more?

Mr. BENNETT. There is no limit, whatever water the Illinois and Des-Plaines Rivers can hold.

Mr. SHAW (Cass). Isn't it a fact you anticipate in the future more than ten thousand feet?

Mr. BENNETT. If you are asking my personal opinion, I will say no, I do not.

Mr. SHAW (Cass). Has anyone in your department been in Washington in recent months seeking to aid the Sanitary District in increasing this flow?

Mr. BENNETT. Sometime ago the war department indicated they would be favorable to ten thousand feet, and Mr. Sackett and Mr. Barnes, our engineer, went to Washington with the Sanitary Department with a view of securing the settlement of this much mooted question. It has been a matter of controversy for years, and that was the reason for their going there.

Mr. SHAW (Cass). I do not understand why you had to make the trip to settle this mooted question when you are getting so much water now.

Mr. BENNETT. This is coming down as the government claims, illegally, and they threaten to shut it off entirely. For the purpose of having the government take action which would end it and make it definite, the matter was taken up with the war department.

Mr. SHAW (Cass). Can you tell me the full capacity of the Chicago Sanitary District Canal?

Mr. BENNETT. No, I could not.

Mr. SHAW (Cass). As a matter of fact, your improvement contemplates taking care of all the water that the Sanitary District could possibly put through their channel?

Mr. BENNETT. Yes, except we have to calculate on storm water.

Mr. SHAW (Cass). As a matter of fact, all the plans of the deep waterway are prepared for a very large increase of flow.

Mr. BENNETT. Yes, they will take care of all the water that can come down. Of course, an unusual flow or flood above the flow provided for by the water power plans will simply increase the height of the flow over the dams; when the water rises there will be more water going over the dam, that is all. The channel will have ample capacity to take care of floods.

Mr. SHAW (Cass). And the more water the more power?

Mr. BENNETT. Yes.

Mr. SHAW (Cass). And the more power you get the better it is in every way?

Mr. BENNETT. Yes, sir.

Mr. SHAW (Cass). You say this will more than pay for the money laid out in the expense of development?

Mr. BENNETT. Yes, sir.

Mr. SHAW (Cass). Well how is it that the Mississippi Power Company, I do not know the proper name at Keokuk, complaining bitterly all the time of not being able to pay expenses?

Mr. BENNETT. I do not know, sir.

Mr. SHAW (Cass). Did I understand you to say a while ago that the increased flow in the Sanitary District would not affect the flood stage of the Illinois River?

Mr. BENNETT. If you increase it beyond what it is now, it would put more water in the river, of course, but that will not be done, it is certain.

Mr. SHAW (Cass). How is that?

Mr. BENNETT. There is no danger of there being more water coming down than has been coming in the past.

Mr. SHAW (Cass). I see. I am interested in shipping grain over the Illinois River, or would like to be. If we ever have this deep waterway, what is the plan for the farmers along the Illinois River for shipping their grain; does it have to be transferred two or three times?

Mr. BENNETT. There is no provision for terminals by the State.

Mr. SHAW (Cass). The plans thus far apply only to that section up in the vicinity of Utica and Lockport?

Mr. BENNETT. The act reads from Lockport to Utica.

Mr. SHAW (Cass). There have been no plans made for deepening the channel along the Illinois River?

Mr. BENNETT. The Government is proposing to do that.

Mr. RINAKER (Macoupin). Mr. Chairman, may I ask Mr. Bennett if this proviso would not make it possible to sell not only the property that is now in Chicago which you say is not adjacent, now in use, but in case of the completion of your waterway as named in the first section, would it not expressly authorize the sale of all land that would not be connected up or that might be detached from the new waterway when completed, including in that description—I mean in the description of the land—that it would be authorized to sell the whole of the present Illinois and Michigan Canal?

Mr. LINDLY (Bond). It says not local.

Mr. RINAKER (Macoupin). It doesn't say "not local" for the Illinois and Michigan Canal. Is it not also open to the construction that you can sell everything, including all of the Illinois and Michigan Canal that would not be required for the new waterway?

Mr. BENNETT. I don't so understand it, Judge, if it does.

Mr. RINAKER (Macoupin). There are two descriptions of property included in the first line of the proposal; that is, "Neither the Illinois and Michigan Canal, nor other canal or waterway." Now, the proviso permits the selling of any land "not needed in connection with navigation, power development, terminals, docks, or other appurtenant works," without restricting that to the property not needed in connection with the Illinois and Michigan Canal, but isn't that broad enough to include the whole of the Illinois and Michigan Canal as not needed in connection with the deep waterway?

Mr. LINDLY (Bond). Mr. Chairman, may I just suggest to Delegate Rinaker, if he will read further in the first section the amendment that was offered by the Senator from Cook, he will find that it says "water sites or any portion of the canal," which covers the ground that he is speaking of now entirely, and that was the purpose of Delegate Hull's amendment.

Mr. RINAKER (Macoupin). I understand the purpose of his amendment, but really the inquiry that I am making is in a large part suggested by the inquiry of Senator Hull himself, if the effect of this proviso would not absolutely negative and nullify the amendment that he did have inserted, so that I asked the question whether or not your attention has been directed to that.

Mr. BENNETT. No, it has not, Judge. In fact, I didn't see this until this morning just a few minutes before I took my position here. The point that I came to speak about especially was leaving the legislature free on the question of appropriations in the future. There is a provision in our act under which we are building the Illinois waterway to the effect that surplus lands may be sold. Now, that was put in having in mind that we might be compelled, in the course of our construction, to acquire lands for use in construction that we would afterwards want to sell, and that was the reason it was put into that act.

Mr. RINAKER (Macoupin). It would be a fact that after the construction of the proposed new waterway, then the whole of the Michigan Canal and all parts of it that could not be utilized in connection with the new waterway would be permitted to be sold under this provision?

Mr. BENNETT. If it so reads; it should not read that way. and I don't understand that it does, but you may be right in your construction.

Mr. RINAKER (Macoupin). I asked the question because that is the way it occurred to me, and I have been opposing the idea of the selling of any of this property. If it was purchased, would it not be much easier, as a policy of the State, to retain the title to any such property and lease it, rather than sell it?

Mr. BENNETT. I don't favor selling it.

Mr. RINAKER (Macoupin). Your judgement would be that any such property should be retained by the State and simply leased?

Mr. BENNETT. Yes, of course, if the State should finally abandon the old Illinois and Michigan Canal, which I don't think it will, because I think it will be used in connection with enterprises along the main canal, there is more or less land a large part of which in fact is not fit for farming purposes. It is rough and covered with stone and earth which came out of the excavation and cannot be leased for anything worth while.

Mr. RINAKER (Macoupin). This 90-foot strip you spoke of and the land in the altrenate section?

Mr. BENNETT. The land in Chicago and Cook county is very valuable land, and it certainly should never be sold except upon a referendum of the people.

Mr. RINAKER (Macoupin). And any similar land upon the canal could be utilized by private business and not by the State, of course, and for that reason would have great value on a leasing basis.

Mr. BENNETT. Some of it would and some of it would not.

Mr. SHAW (Cass). Mr. Chairman, may I ask just one question?

Mr. BENNETT. Yes, sir.

Mr. SHAW (Cass). I understood you, in answering Governor Fifer's question, to say that the old Sanitary District canal was originally excavated for the purpose of taking care of the sewage from the City of Chicago?

Mr. BENNETT. Yes, sir.

Mr. SHAW (Cass). The object of flowing water from Lake Michigan through this canal is for the purpose of diluting the sewage from the City of Chicago, is it not?

Mr. BENNETT. Yes, sir.

Mr. SHAW (Cass). The more sewage they have, the more water they must have to dilute it?

Mr. BENNETT. Yes, sir.

Mr. SHAW (Cass). And the greater their population becomes the more water required?

Mr. BENNETT. Yes, sir.

Mr. SHAW (Cass). Now, I understand that the officials of the Sanitary District of Chicago acknowledge their system is old and antiquated and out of date and insufficient, and that they propose putting in sewage disposal treatment plants of some kind which they have been experimenting on for a number of years; is that right?

Mr. BENNETT. Yes, sir.

Mr. SHAW (Cass). They have finally decided upon some system which they approve; is that correct?

Mr. BENNETT. They have adopted certain plants which they are going to start on any way.

Mr. SHAW (Cass). They figure that they should have a period of twenty years in order to construct these plants and put them in operation; is that so?

Mr. BENNETT. I don't know as to that. They want a period of time to complete them. They are to start and progress dilligently from this time forward, but just how long they propose to take I don't know.

Mr. SHAW (Cass). In your opinion, it would not be very diligent work if they required twenty years' time in order to construct these plants, would it?

Mr. BENNETT. Just to complete it; I am not sure. It is a pretty big problem when you talk about changing the sewers in a city. There has to be tearing up of streets. To say it would be completed in a shorter time than that I am not sure.

Mr. LINDLY (Bond). Mr. Chairman, there isn't a thing in this proposal touching the question of the purification of the sewage of Chicago, and it seems to me like we are taking lots of time here on this proposition that does not touch this proposal.

Mr. SHAW (Cass). Mr. Chairman, I have a perfect right to ask questions on this subject. This has a bearing, which I think I will be able to show in just a few minutes.

CHAIRMAN WILSON. I think it is a matter of courtesy.

Mr. SHAW (Cass). If the City of Chicago treats its sewage, they are naturally going to become less and less interested in this flow of water through the Sanitary District?

Mr. BENNETT. The State law covers that. There has to be a certain flow of water. I have forgotten what it is.

Mr. SHAW (Cass). If they get to treating all their sewage and are not interested in the flow any more, they are likely to leave you fellows high and dry.

Mr. BENNETT. They will never get to a point where they can do with less than ten thousand; that is my judgment.

Mr. SHAW (Cass). If they never increase that, you are going to be all right anyway?

Mr. BENNETT. Yes, sir, we can get along with half that amount. The only effect, it would decrease our power.

Mr. SHAW (Cass). If the City of Chicago can decrease their flow to five thousand, would you consent to cutting it down that much?

Mr. BENNETT. No, sir.

Mr. SHAW (Cass). You just said you could get along with five thousand.

Mr. BENNETT. We don't want to.

Mr. SHAW (Cass). You don't want to?

Mr. BENNETT. No.

Mr. SHAW (Cass). As a matter of fact, you would rather increase it by fifty per cent?

Mr. BENNETT. From the water power standpoint, yes, but when you consider the flow down State and the effect it has upon other lands, those things all have to be considered.

Mr. SHAW (Cass). So far as that section is concerned, the water power is the real idea, isn't it?

Mr. BENNETT. You mean that is the main motive in this matter?

Mr. SHAW (Cass). Yes.

Mr. BENNETT. No, sir, I believe the waterway is the main object.

Mr. SHAW (Cass). The waterway?

Mr. BENNETT. Absolutely, and the most important by all odds.

Mr. DOVE (Shelby). That waterway is now being used for shipping?

Mr. BENNETT. You mean the old Illinois and Michigan Canal?

Mr. DOVE (Shelby). Yes, sir, that part below Lockport.

Mr. BENNETT. Yes, as I told you in the outset, we have a dam out at Channahon that is now under construction.

Mr. DOVE (Shelby). About what is the tonnage per annum on the canal at this time?

Mr. BENNETT. I beg your pardon?

Mr. DOVE (Shelby). About what is the tonnage?

Mr. BENNETT. I can't give you that; I don't keep those details.

Mr. DOVE (Shelby). Have you any idea?

Mr. BENNETT. No, sir, I have not.

Mr. DOVE (Shelby). No idea?

Mr. BENNETT. No, sir.

Mr. DOVE (Shelby). That is all.

Mr. BENNETT. I can furnish it to you from the office if you would like it, but I don't keep track of the tonnage on the canal.

Mr. GILBERT (Jefferson). Mr. Bennett, will you be kind enough to give the Convention some further light on the water power development, its possibilities, and what is in contemplation in the way of handling it, whether by leasing or State development? I wish you would amplify that, please.

Mr. BENNETT. Under the act of the legislature we can either develop this power ourselves or lease it. We propose to take bids for the use of this power, and to determine whether it is to our advantage to spend the money

on the actual putting in of the machinery or lease it out. Now, the terms on which that may be done are fully set forth in the act of the legislature. Leases may be made for a certain number of years with revaluations every ten years. Just which plan we will adopt will depend upon the financial showing when we come to take these bids. We are also governed by the fact that if we should go ahead now and finish up we would not have power enough to supply the power plants, so the matter has not been definitely determined which method will be pursued.

Mr. GILBERT (Jefferson). What income is estimated will be derived from that source?

Mr. BENNETT. From a million to a million and a half dollars. The engineer says it will run on present prices a million and a half dollars.

Mr. MILLS (Macon). As I understand you to say, Mr. Bennett, it has not yet been determined what land should be sold?

Mr. BENNETT. There is no proposition for selling land before us now of any kind.

Mr. MILLS (Macon). Who is to determine what land shall be sold?

Mr. BENNETT. Any of the lands which I have mentioned are subject to sale by the department now. We have the power to sell them now.

Mr. MILLS (Macon). Can the corporation or organization tell what you will need ten years from now?

Mr. BENNETT. No, I don't think we can.

Mr. MILLS (Macon). Is it safe, then, to sell it?

Mr. BENNETT. There is no proposition to sell it.

Mr. MILLS (Macon). Well, I say is it safe to advise the sale of it?

Mr. BENNETT. I say I would not advise the sale of anything we have now.

Mr. MILLS (Macon). Wouldn't it be easier to lease it and have a revaluation at least every ten years?

Mr. BENNETT. It might be.

Mr. MILLS (Macon). What is your judgment about it?

Mr. BENNETT. It depends upon the proposition in hand. I would want to have a concrete question before me before I answered that.

Mr. MILLS (Macon). Would it be safer for the State to lease it with a revaluation every ten years than to sell it or authorize the sale of it now?

Mr. BENNETT. Why, on general principles, it is to the best interest of the State to keep the land it has and to lease it, but there is none of these lands which I would advocate leasing, or selling, at any time.

Mr. MILLS (Macon). Or selling. Thank you.

Mr. CARLSTROM (Mercer). Mr. Chairman, I desire to offer an amendment to this proposal.

Amend Proposal 354 by adding: "The General Assembly shall never loan the credit of the State or make appropriations from the treasury thereof, in aid of any railroad, nor in aid of any canal or waterway, except to appropriate the proceeds realized from the sale of any bonds now authorized to be issued for such purpose together with the earnings realized from the sale, lease or operation of any such canal or waterway, or any product, power, energy, water or other incidental right, developed by or resulting from the construction, maintenance or operation of any such canal or waterway as herein provided for, and such other issues of bonds or appropriations of monies as shall first be approved by the electors of this State, at a referendum vote on such issue or appropriation.

Mr. SHANAHAN (Cook). Mr. Chairman, with the permission of the gentleman from Mercer I would like to state that this discussion this morning has taken quite a wide range and many matters have been injected into the question which have no bearing whatever upon this proposal.

I suppose that many members of the Convention were asking for information from the Director of Public Works regarding the proposed new waterway, and the delegate from McLean (Pifer) called attention to the twenty million dollar bond issue and to the Chicago ditch.

I think that it might be well to have a brief history of all this litigation, and I hope that Mr. Woodward, the President of this Convention, will discuss

very thoroughly this whole subject before we vote on it, because he was one of the assistant attorneys general in most of this litigation.

As far back as 1885 an agitation was started in the City of Chicago to protect its water supply, and at the session of the General Assembly in 1889 an act of the General Assembly was passed creating a municipality known as the Sanitary District of the City of Chicago. In 1890 the first Sanitary District board was elected, and they started to prepare plans for the construction of a channel from the Chicago River at Bridgeport to Lockport to carry away sewage of the City of Chicago.

At first it was decided to use the old canal, but after getting advice from counsel and from engineers, it was determined that it was more feasible to build a new channel running parallel with the old canal, and they proceeded to do so at an expense of some thirty-two or three millions of dollars.

During the construction of the canal it was found that there was considerable water power along the right of way, and the Sanitary District of Chicago started in to develop that water power, at an enormous expense to the taxpayers of the City of Chicago.

The construction of this canal and the construction of the water power was paid for out of taxes collected in the Sanitary District of Chicago, which was practically within the City of Chicago.

After constructing the water power at Lockport and finding it valuable, the Sanitary District desired to construct its channel from Lockport down through the City of Joliet, to a point known as Brandon Road, but the members of the General Assembly from the County of Will protested very strongly in behalf of the citizens of that county, claiming that it would endanger the lives and the property of the people of Joliet if a great wall was built through the city, and that this water would flow through the city. They put up a very determined opposition to it in the General Assembly, and in the session of 1907, when it was attempted to put this legislation through, they prevented the same, and out of that fight grew the constitutional amendment of 1908, which was passed amending the Constitution of this State, providing for the issuance of twenty million dollars of bonds to build a deep waterway from Lockport to the City of Utica.

The plea was put up at that time in the General Assembly by the members from down State that if this water power would amount to a million and a million and a half dollars, there was no reason why the State of Illinois should give that right and that amount of money to the Sanitary District of Chicago, but that the State of Illinois should hold it for all time for the benefit of the taxpayers of the entire State, and for that reason the amendment to the Constitution was passed.

At the succeeding session of the General Assembly a waterway bill known as the so-called Deneen waterway bill was passed, providing for the digging of this channel. The War Department at Washington refused to give a permit under that legislation.

At the next session of the General Assembly that act was amended to meet the supposed objections of the War Department, but the War Department again refused to give the permit.

A change of administration occurred, and at the next session of the General Assembly the so-called Dunne waterway plan was presented, providing for a six-foot channel in a different direction. That passed the General Assembly, became a law, was presented to Washington, and the department again refused to issue the permit, claiming that it would not be a deep waterway, or a navigable stream.

Another change of administration occurred, and at the session of 1917 the so-called Lowden waterway plan was presented and passed, and under that enactment it was presented to the War Department at Washington, and a permit was issued for the construction of this deep waterway, and at the last session of the General Assembly an act was passed for the building of this waterway and for the issuance and sale of twenty million dollars' worth of bonds, and providing for the payment of interest on the same.

Now, no matter what action this Constitutional Convention takes, the Department of Public Works has the right now to go ahead and issue these bonds

and start the building of this waterway. They don't need any action of this Constitutional Convention whatever, so that anything that may have been said on the question has no bearing on the proposal before the Convention at the present time.

The question before the Convention is as to the sale or lease of land owned by the Illinois and Michigan Canal Commission, or their successors. It deals entirely with the disposition of the Illinois and Michigan Canal, or any other canal or waterway owned by the State of Illinois.

As the Director of Public Works well said, at the present time the Department of Public Works, with the approval of the Governor, has the right to sell any of these lands without asking the General Assembly for any legislation or without submitting it to a vote of the people. So that I think it is unnecessary to go as far as you are attempting to go in this proposal to provide means whereby these individual lots or parcels of land may be sold. All that is necessary here is to protect the Illinois and Michigan Canal and the land adjacent thereto, the so-called tow-path, the 225 feet comprising the tow-path, and the right-of-way of the canal.

I merely make this statement for the benefit of the Convention, and I hope that Mr. Woodward will explain to this Convention the litigation that has occurred regarding all this waterway litigation and regarding the condemnation of sites, and so forth, along the channel.

Mr. FIFER (McLean). Mr. Chairman, I would like to ask the gentleman a question. He spoke of the deep waterway; where was it to begin and where was it to terminate?

Mr. SHANAHAN (Cook). The deep waterway was to begin in the City of Lockport and extend from there down through Will county and Grundy county and LaSalle county to the City of Utica.

Mr. FIFER (McLean). Was the Chicago Drainage District channel to be utilized for carrying freight and the boats that would run from the Illinois River up to Lockport?

Mr. SHANAHAN (Cook). The drainage channel was to be used from the City of Chicago to Lockport. The law provides for that.

Mr. FIFER (McLean). That is just the point I want. So that a deep waterway then, as really contemplated, was to begin at Chicago?

Mr. SHANAHAN (Cook). No.

Mr. FIFER (McLean). I know, not under the act that was passed, or the Constitution, because the Constitution specifically provides that this improvement shall begin at Lockport and end at Venice. Now, that would be a very poor beginning and ending for a deep waterway, so I would like to know, and I would like for these gentlemen to know, whether the drainage district from Chicago to Lockport would be used as a continuing line of this deep waterway?

Mr. SHANAHAN (Cook). The Great Lakes and the Chicago Drainage District were to be used as part of the system of the deep waterway.

Mr. FIFER (McLean). The drainage district from Chicago?

Mr. SHANAHAN (Cook). The drainage district that has been built from the City of Chicago to Lockport.

Mr. FIFER (McLean). And then the State was to take it up and continue it?

Mr. SHANAHAN (Cook). The State was to take advantage——

Mr. FIFER (McLean). I understand that.

Mr. SHANAHAN (Cook). ——of the channel that was built at the expense of the City of Chicago.

Mr. FIFER (McLean). I understand that, but when finally completed the entire line of the deep waterway began at Chicago and terminated at Venice, on the Illinois River?

Mr. SHANAHAN (Cook). No, I wouldn't say that. The channel would begin anywhere in the Great Lakes and continue through the Great Lakes——

Mr. FIFER (McLean). That would not be a deep waterway, or the ocean, that isn't the cognomen of a deep waterway. Now, the deep waterway would begin at Chicago and terminate at Venice, or Utica, isn't that so?

Mr. SHANAHAN (Cook). I couldn't say, technically, where it would start.

Mr. FIFER (McLean). Do you think it would be a very good proposition for Illinois to build a deep waterway from Lockport to Venice, on the Illinois River, or Utica, I mean?

Mr. SHANAHAN (Cook). Well, Governor, I would answer you in this manner: That I have lived within the shadow of the so-called deep waterway all my life.

Mr. FIFER (McLean). Yes, that is Lake Michigan?

Mr. SHANAHAN (Cook). That is the Chicago River.

Mr. FIFER (McLean). Yes, the Chicago River.

Mr. SHANAHAN (Cook). And I hope to see these vessels go down this deep waterway before I die. I don't know whether they will or not.

Mr. FIFER (McLean). Do you think it would be a good business proposition for Illinois to start to build a deep waterway from Lockport to Utica?

Mr. SHANAHAN (Cook). I do.

Mr. FIFER (McLean). And not connect up with any other waters?

Mr. SHANAHAN (Cook). It connects up with the Sanitary District channel and with the Illinois River.

Mr. FIFER (McLean). The Sanitary District and the State of Illinois is to go into a sort of a partnership; the Sanitary District will own the northern portion and the State will own that part of it from Lockport to Utica?

Mr. SHANAHAN (Cook). No, I think the Federal Government will own it after it is completed.

Mr. FIFER (McLean). That is your opinion?

Mr. SHANAHAN (Cook). Yes.

Mr. FIFER (McLean). You think the Federal Government will take it over?

Mr. SHANAHAN (Cook). No, they will own it; it will be a navigable stream.

Mr. FIFER (McLean). They will have first to declare it a navigable stream. Have they ever declared the canal that you have had there fifty years a navigable stream?

Mr. SHANAHAN (Cook). I don't know. Mr. Woodward can tell you more about the litigation, or my friend Judge McEwen, who was general counsel for the Sanitary District.

Mr. FIFER (McLean). That has been given over to the bull frogs and the tadpoles?

Mr. SHANAHAN (Cook). Which?

Mr. FIFER (McLean). The old canal. Now they want to build a new one. That is all.

CHAIRMAN WILSON. Gentlemen, may the chairman make a statement as a member of the committee?

VOICES. Leave.

CHAIRMAN WILSON (Cook). Gentlemen, it seems to me we have before us a very simple question of policy. The State legislature has already appropriated, as we know, twenty millions of dollars for the purposes of which we know.

The question has come up about restricting any further appropriations by the legislature. That means the leaving out of this clause which says the General Assembly shall never loan the credit of the State, and so forth, or make appropriations from the treasury thereof for railroads or canals.

It seems to me that that is a question that can be left to the legislature, the legislature having already made an appropriation of twenty million dollars. If this committee does not wish to leave it to the legislature, then it is still a question of policy. It is on that question of policy, it seems to me, that this great question of power to issue bonds devolves.

Now, as a member of the committee, I want to say something further. As a question of business and as a question of finance, it will not do for this committee to fail to anticipate that this project, or any other such project, may not cost more than twenty million dollars.

Furthermore, there is a financial restriction regarding the interest of these bonds, which says they shall be issued at four per cent. I think as a

member of this committee it is my duty to say to this Committee of the Whole that it may be some time before such bonds may be issued at four per cent and sold at a favorable rate; it may be some years. If they should be issued at four per cent and sold under par, there would be a loss right there.

This Committee on Public Works and Improvements, I think, as you will already have noticed, desires to have a very free discussion upon every point. I am very glad that Delegate Fifer brought up the subjects that he has. But, nevertheless, the main thing that I think we must have in the minds of the Committee of the Whole is this question of policy.

The legislature, under its power as provided by the Constitution, having already given the Department of Public Works the power to do this thing, it seems to me the question is, "Shall that power be restricted; shall it be allowed to go only a certain distance and then stop, or shall the legislature be empowered to proceed with that work if it is necessary?"

I thank you, gentlemen.

Mr. CARLSTROM (Mercer). Mr. Chairman, I would like to have the amendment read.

CHAIRMAN WILSON. An amendment by Delegate Carlstrom.

Mr. LINDLY (Bond). Mr. Chairman, the question before the house is the adoption of this section, as read.

Mr. TRAUTMANN (St. Clair). This is an amendment.

(Amendment read.)

Mr. GALE (Knox). Mr. Chairman, I see that that amendment would leave us in the situation of having voted twenty million dollars of bonds, the proceeds of which at some time may be used for the purpose of building this canal.

It has been said here on the floor, and we all know it to be true, that no man can tell whether that will be sufficient for the purpose. Now, the proposal as reported by the committee leaves the situation such that the State can add to that twenty million dollars when it is needed. The amendment as proposed would strike out the possibility of such aid without amendment to the Constitution, except from the earnings of the canal.

Now, Mr. Chairman, it seems to me that one of two things must be done. Either we should adopt the committee report or leave the possibility of the aid to this canal and to this waterway project when necessary, or else we should do something which so far as we can would invalidate the bonds which have been authorized but never issued.

The State of Illinois should not go into the possibility of putting a large amount of money into a project not knowing whether or not that will make the project complete, and then tie its hands from going further, and therefore, Mr. Chairman, I desire to offer as an amendment to the amendment proposed by the delegate from Mercer the following words:

"And no bonds, whether heretofore authorized or not, shall be sold or issued by the State in aid of any canal or waterway unless the specific proposition therefor shall first be submitted to a vote of the people of the State at a general election and approved by a majority of those voting thereon."

Mr. CARLSTROM (Mercer). Mr. Chairman, I wish to say just a word on this amendment which I offered. The gentleman from Knox (Gale) has entirely misconstrued its meaning. There is no prohibition whatever against the use of the twenty million dollars which have been appropriated, or which have been authorized. There is no inhibition in this amendment against the use of any earning from the operation of the canal or from the lease of any power sites or any other incidental rights that might arise from the construction of the canal. The only thing it does provide is this: That the State of Illinois, acting through its people, now shall place a restriction upon the expenditure of perhaps hundreds of millions of dollars in a situation that might ultimately prove itself to be similar to that which we now have with reference to the Illinois and Michigan Canal. It authorizes and provides that if the situation reaches that point where additional funds are needed from the State to complete the project we can act upon it as we acted upon the original authorization of the twenty millions of dollars. I don't believe,

Mr. Chairman and gentlemen, that we should open the way to the very thing that has been suggested by the gentleman from Knox (Gale), to justify sinking ourselves hopelessly into debt on the theory that we have already got one foot into a bad debt and should sink hundreds and millions of dollars more to put the other foot in wrong, or to save the money we have started with.

I believe, Mr. Chairman and gentlemen, this is a reasonable restriction. I believe it is the sense of the delegates of this Convention that there should be some restriction upon the expenditure of money for building a deep waterway.

In view of the experience which has been detailed to us by the gentleman from McLean (Fifer), former Governor of this State, with reference to the attempts to build the Illinois Central Railroad in the early history of this State, and with reference to the expenditure of money which has already been involved in the construction of the Illinois and Michigan Canal, which for twenty years was a stench throughout the State because of the financial waste that was being carried on in its maintenance, or its operation, I believe that we would be amiss, or utterly amiss, did we not reserve unto the people of this State the right to say whether an additional twenty or twenty-five or fifty millions of dollars should be taken from the public funds of this State and put into an enterprise the result of which cannot be foreknown. By the time the money were expended there might be a system of transportation which would render useless this proposition as a transportation facility in the State.

The only object of this, it was carefully drawn with a view to authorizing the expenditure of the money already authorized and of income that might be realized under the provisions of the preceding paragraph of the section from the operation for the construction or maintenance of the canal, but that aside from that there should be no other vast expenditure of money except when approved by the people of the State. I think that is a reasonable and proper position for this Convention to take upon this subject.

Mr. SUTHERLAND (Cook). Mr. Chairman, I am in hearty accord with the sentiments expressed by the delegate from Mercer (Carlstrom), but it occurs to me, as the Chairman himself has well pointed out, and as the distinguished delegate from Cook, the former Speaker of the House, has well pointed out, we cannot be too rigid in limiting a State project already authorized. It may be that we will never develop the waterway, but if we do, and if by any chance it would require some temporary appropriation out of State funds, some elasticity must be made.

On the other hand, Mr. Chairman, it seems to me that we have got to safeguard that proposition very, very carefully, and, Mr. Chairman, I desire to offer the following as a substitute for the pending amendment:

"Amend Proposal No. 354 by adding at the end of paragraph one, the following sentence: 'The General Assembly shall never loan the credit of the State in aid of canals or waterways in excess of bonds already authorized at the adoption of this Constitution, except under the provisions of section 18 of Article IV of the Constitution of 1870, and shall never make any appropriation, except from the proceeds of bond issues and out of revenues derived from the operation of such State projects, from the State treasury for such purpose, unless the law making such appropriation together with the law levying the tax therefor shall be submitted to the electors of the State at the next succeeding general election, and acts so submitted shall not take effect unless at such election they shall receive a majority of the votes polled. Only one such proposition shall be submitted at any given election and shall be in aid of not more than one canal or waterway.'"

Now, Mr. Chairman, in what I shall say in support of that proposed limitation I don't wish to be understood as criticising any Governor who has urged deep waterway construction in the State of Illinois, nor any General Assembly that has acted in accordance with the suggestion of any such Governor. I am speaking only about general propositions and general rules that tend to operate in legislative bodies and in governments. Whenever a Governor has a program to put through he properly and wisely exercises the

force of patronage at the disposition of the State administration. It is necessary that he should do so in order to carry his program, but, Mr. Chairman, it is entirely conceivable that at some time there might sit in the Governor's chair one who was more interested in building a piece of political machinery than in serving the interests of the people, one who would not hold back waterway construction, as some of our Governors have, because of untoward circumstances not favorable to the best interests of the people, but who would push the work for the sake of creating endless jobs and a force of political followers. Always there is this danger that arises if we remove this limitation, and that is the danger of the pork barrel. You will be likely to have, in many sections of the State, demands arising for canalization and improvement of insignificant water courses, and then the tendency will be to roll these various proposals together and get the votes in the General Assembly, with each district affected favoring them to get a vote at the election that will carry them; so I have not only put back the provision now in the Constitution forbidding appropriations in aid of canals and waterways, but in order to secure elasticity, which I believe to be necessary because of the reasons stated by the Chairman and the delegate from Cook, I have provided that such appropriations might be made in emergencies, and must be submitted to the voters. I also provide in this substitute that only one such proposition shall be submitted at any given election, and shall not be in aid of more than one canal or waterway. That will effectively stop, I think, any pork barrel legislation. At the same time it will give elasticity.

We cannot run the government without trusting the people and their representatives in the General Assembly to a very large extent, and I think that this at once provides elasticity and safeguards the proposition.

I move the adoption of the substitute.

Mr. MILLER (Cook). Mr. Chairman, I think when this Constitution is finished, or the draft of it that we will make, it will provide that no bonds shall be issued by the State except upon a referendum vote, and if that is done, it seems to me we can safely leave the situation with that safeguard as to the expenditure of public moneys either for this canal or for any other, because no great sums can be spent for such purposes without an issuance of bonds.

Now, as to the amendment suggested by the delegate from Knox (Gale), what would be the situation, may I ask, if between now and the time that this Constitution is submitted and voted upon six months or a year or a year and a half hence these twenty millions of bonds should be sold?

That, I take it, might be done notwithstanding a provision of this kind and then we would be committed to that extent and couldn't go on any farther.

It seems to me, therefore, that the situation can safely be left with the provision as submitted this morning.

Mr. GALE (Knox). Mr. Chairman, I am convinced by the speeches of the gentlemen on the floor here, and particularly the delegate from Mercer (Carlstrom) that this entire waterway proposition is one with which the State of Illinois should have nothing whatever to do, and that if it is possible to get out of the expenditure of the twenty million dollars of bonds which have already been authorized that we ought to get out of it. (Applause.)

I appreciate the difficulties suggested by the delegate from Cook, but I wish to say, Mr. Chairman, that I believe if that provision is in this Constitution it will be so exceedingly difficult to find buyers for those bonds that the bonds will not be issued and sold until after this Constitution is voted upon one way or the other.

When the people of the State of Illinois voted that twenty million dollar issue of bonds I think every delegate here will remember that what we were told in the campaign was a fourteen foot waterway, pictures were held out to us of ocean-going vessels, if you please, coming from Lake Michigan to the Gulf of Mexico. I don't believe the people of the State of Illinois, if it were presented to them today, could by any possibility be induced to vote for an eight foot waterway, and that the expenditure and the use of this

twenty million dollars of money is an absolutely foolish waste of the public funds of the State of Illinois.

I don't believe that you could organize any association of business men to put twenty million dollars into a project which their own engineers would tell them, as we have been told this morning, could by no possibility ever earn more than a million dollars and a half a year for them, because that is too small a return on their money to justify the risk that they would take on it, knowing as we all know that preliminary engineers' estimates of earning are to be cut in two or in three, or to nothing at all; and therefore, Mr. Chairman, I would like to see the amendment which I offered to the amendment offered by the delegate from Mercer adopted by this Convention.

Mr. TRAUTMANN (St. Clair). Mr. Chairman and Gentlemen of the Committee: Just briefly, I am in favor of the substitute offered by the gentleman from Cook. In the first place, I don't think that this Convention should omit from the new Constitution the provision of the Constitution of 1870, which provided that the General Assembly shall never loan the credit of the State or make appropriations from the treasury thereof in aid of canals and railroads, except to cut out the word "railroads" and put in the word "waterways," as the gentleman has in his proposal.

Now, I don't care to differ with the Director of Public Works, but on this question I do. I don't believe that the General Assembly should be permitted in the future to be unlimited in its appropriations for money to maintain waterways and canals.

I very well remember the contest on the floor of this house in 1903 when an appropriation was made in violence of this provision of the Constitution, amounting to \$152,950. After that appropriation was made, Mr. Richard E. Burke, of the City of Chicago, who was a member of the General Assembly, started proceedings in the circuit court of Sangamon county to prevent the payment of the vouchers drawn upon this fund by the Auditor and the State Treasurer. That case went to the Supreme Court, and it is found in Volume 208, commencing on page 328. In that decision the Supreme Court held that the State legislature had no right to make that appropriation for that purpose.

Now, if this twenty million dollars is used in the future and it is found to be insufficient, and if you gentlemen put in this provision, there is no limitation upon the legislature making any kind of an appropriation to complete the work.

If it is not sufficient to complete the enterprise, and if it is a good enterprise, the people of the State of Illinois will vote for the additional bond issue to complete it, as provided for in the amendment submitted by the gentleman from Cook.

Now, I don't agree with the amendment offered by the gentleman from Knox (Gale), because I don't think it is a fair proposition to try, in a new Constitution, where you have all of the other provisions of a Constitution, to invalidate a bond issue that has been voted by the people. If they want to invalidate that bond issue, submit another vote for that.

I am not any more in favor of doing away in this Constitution with that twenty million dollar appropriation that has been voted upon by the people than I am in favor of putting a provision in this Constitution abolishing or nullifying the sixty million dollar appropriation for hard roads. That is exactly in the same position as this bond issue. No bonds have been issued in the State of Illinois for the sixty million dollars of hard roads and no bonds have been sold for this project. If you put in one you should put in the other, and I don't think it is a fair proposition to try to nullify a bond issue of the people in a new Constitution. I don't know the reasons why the people voted for it, but they did. I don't know as it would make much difference to the people of Illinois whether it was a fourteen foot waterway through the valley or whether it was an eight foot waterway, provided they were satisfied the eight foot was sufficient, and if it is sufficient, if it corresponds with the depth of the Illinois and the Mississippi Rivers, then I say to you that a fourteen foot waterway for fifty odd miles would be a waste of money. So I say again that I am in favor of the substitute which was

offered by the gentleman from Cook and I am not in favor of the amendment made by the gentleman from Knox.

Mr. CARLSTROM (Mercer). Why do you exempt railroads?

Mr. TRAUTMANN (St. Clair). Because that should be taken care of in another section of the Constitution, as I understand it to be.

Mr. CARLSTROM (Mercer). Isn't it a pretty good plan to take care of that now?

Mr. TRAUTMANN (St. Clair). You can very well take out one sentence. You can transpose a lot of sentences. The Committee on Style and Phraseology I understand have authority to take out three or four words from one section and add them in another.

Mr. LINDLY (Bond). Mr. Chairman, I move that the committee do now rise and report progress, owing to the lateness of the hour, and so many men have gone home.

Mr. SUTHERLAND (Cook). Mr. Chairman, I would like to make a word of explanation while this question is still up.

I had the same idea in omitting railroads as the delegate from St. Clair has expressed, and I proposed putting it in first, having in view the very thing Captain Carlstrom suggested, but it seemed to me in our case we were handling a matter of appropriations more specifically than credit, and we didn't want to, by any chance, have it appear that the State is to appropriate for railroads at any time, so I omit the railroads, believing it will be handled in some other manner.

CHAIRMAN WILSON. The question is, "Shall the committee rise and report progress?"

(Motion prevailed.)

President Woodward in the chair.

Mr. WILSON (Cook). Mr. President, the Committee of the Whole, having under consideration Proposal No. 354, wishes to report progress and ask leave to sit again.

(Report adopted.)

Mr. TRAUTMANN (St. Clair). Mr. President, I move we now adjourn.

(Motion prevailed.)

Whereupon an adjournment was taken to Friday, April 30, 1920, 10:00 o'clock a. m.

FRIDAY, APRIL 30, 1920.**10:00 o'Clock A. M.**

The Convention met pursuant to adjournment.

The President in the Chair.

Prayer by the Chaplain.

THE PRESIDENT. The Journal of Wednesday, April 28th, 1920, was placed on the desks of the delegates on yesterday and is now subject to correction. There being no corrections proposed, the Journal of Wednesday, April 28, 1920, will stand approved, and it is so ordered.

Whereupon the Convention proceeded upon the order of special orders of the day, reports of standing committees.

THE PRESIDENT. The Committee on Distinction Between Constitutional and Legislative Subjects presents a report.

Your Committee on Distinction Between Constitutional and Legislative Subjects to which was referred Proposal number fifteen (15) entitled, "A proposal to retain in the new Constitution the article on warehouses in the present Constitution," and Proposal numbered one hundred sixty-six (166) entitled, "A Proposal to repeal Article XIII of the Constitution of 1870," reports that it is the opinion of the members of the committee that the said proposals relate to a constitutional subject.

Therefore, in as much as your committee is without authority to consider these proposals upon their merits, the committee recommends that the said proposals be referred to the proper committee for consideration upon the merits.

Respectfully submitted,

CYRUS E. DIETZ,
D. E. MACK,
WILLARD M. McEWEN,
E. H. BREWSTER,
JOHN L. DRYER,
EDWARD M. CORLETT,
Committee.

THE PRESIDENT. Under the rules, the report of the committee will lie upon the table and be printed.

Your Committee on Distinction Between Constitutional and Legislative Subjects, to which was referred Proposal number twenty-three (23) entitled, "A Proposal to Declare Certain Acts by Public Officers, sedition," reports that it is the opinion of the members of the committee that the said proposal is a constitutional subject.

Therefore, as your committee is without authority to consider said proposal, upon its merits, the committee recommends that said proposal be referred to the proper committee, for consideration of said proposal upon its merits.

Respectfully submitted,

CYRUS E. DIETZ,
D. E. MACK,
WILLARD M. McEWEN,
E. H. BREWSTER,
JOHN L. DRYER,
EDWARD M. CORLETT,
Committee.

THE PRESIDENT. Under the rules, the report of the committee will lie upon the table and be printed.

Your Committee on Distinction Between Constitutional and Legislative Subjects, to which was referred Proposal number two hundred and eleven (211) entitled, "A proposal to Provide Employment Control and for the Classification of Certain Positions in the Public Service," reports that it is the opinion of the members of the committee that the said proposal is a constitutional subject.

Therefore, as your committee is without authority to consider said proposal, upon its merits, the committee recommends that said proposal be referred to the proper committee for consideration of said proposal upon its merits.

Respectfully submitted,

CYRUS E. DIETZ,
D. E. MACK,
WILLARD M. McEWEN,
E. H. BREWSTER,
JOHN L. DRYER,
EDWARD M. CORLETT,
Committee.

THE PRESIDENT. Under the rules, the report of the committee will lie upon the table and be printed.

Your Committee on Distinction Between Constitutional and Legislative Subjects, to which Proposal No. 282 entitled, "A Proposal to Provide for the Removal of Snow and Ice from Sidewalks" was referred, reports that upon consideration of the proposal and the authorities, which control the question involved, it is the opinion of the members of the committee that the proposal is a constitutional subject.

Therefore, as your committee is without authority to consider said proposal, upon its merits, the committee recommends that said proposal be referred to the proper committee for consideration of said proposal upon its merits.

Respectfully submitted,

CYRUS E. DIETZ,
D. E. MACK,
WILLARD M. McEWEN,
E. H. BREWSTER,
JOHN L. DRYER,
EDWARD M. CORLETT,
Committee.

THE PRESIDENT. Under the rules, the report of the committee will lie upon the table and be printed.

Your Committee on Distinction Between Constitutional and Legislative Subjects, to which was referred Proposal number two hundred and eighty-four (284) entitled, "A Proposal for the Issuance of Bonds by the State or Municipalities to Encourage the Building of Homes and Buying of Lands by Citizens of the State," reports that it is the opinion of the members of the committee that the said proposal is a constitutional subject.

Therefore, as your committee is without authority to consider said proposal, upon its merits, the committee recommends that said proposal be referred to the proper committee for consideration of said proposal upon its merits.

Respectfully submitted,

CYRUS E. DIETZ,
D. E. MACK,
WILLARD M. McEWEN,
E. H. BREWSTER,
JOHN L. DRYER,
EDWARD M. CORLETT,
Committee.

THE PRESIDENT. Under the rules, the report of the committee will lie upon the table and be printed.

Your Committee on Distinction Between Constitutional and Legislative Subjects, to which was referred Proposal number seventy-three (73) entitled, "A Proposal Defining Intoxicating Liquors and Beverages," reports that it is the opinion of the members of the committee that said proposal is a legislative and not a constitutional subject.

Therefore, your committee recommends that the said proposal do not become a part of the proposed Constitution.

Respectfully submitted,

CYRUS E. DIETZ,
D. E. MACK,
WILLARD M. McEWEN,
E. H. BREWSTER,
JOHN L. DRYER,
EDWARD M. CORLETT,
Committee.

THE PRESIDENT. Under the rules, the report of the committee will lie upon the table and be printed.

Your Committee on Distinction Between Constitutional and Legislative Subjects, to which was referred Proposal number seventy-four (74) entitled, "A Proposal Granting Power and Authority to Municipalities to License and Regulate Boxing Contests," reports that it is the opinion of the members of the committee that said proposal is a legislative and not a constitutional subject.

Therefore, your committee recommends that the said proposal do not become a part of the proposed Constitution.

Respectfully submitted,

CYRUS E. DIETZ,
D. E. MACK,
WILLARD M. McEWEN,
E. H. BREWSTER,
JOHN L. DRYER,
EDWARD M. CORLETT,
Committee.

THE PRESIDENT. Under the rules, the report of the committee will lie upon the table and be printed.

Your Committee on Distinction Between Constitutional and Legislative Subjects, to which was referred Proposal number seventy-five (75) entitled, "Prohibiting Professional Wrestling Exhibitions," reports that it is the opinion of the members of the committee that said proposal is a legislative and not a constitutional subject.

Therefore, your committee recommends that the said proposal do not become a part of the proposed Constitution.

Respectfully submitted,

CYRUS E. DIETZ,
D. E. MACK,
WILLARD M. McEWEN,
E. H. BREWSTER,
JOHN L. DRYER,
EDWARD M. CORLETT,
Committee.

THE PRESIDENT. Under the rules, the report of the committee will lie upon the table and be printed.

Your Committee on Distinction Between Constitutional and Legislative Subjects, to which was referred Proposal number seventy-seven (77) entitled, "For the Manufacture, Sale and Distribution of Beers," reports that it is the opinion of the members of the committee that said proposal is a legislative and not a constitutional subject.

Therefore, your committee recommends that the said proposal do not become a part of the proposed Constitution.

Respectfully submitted,

CYRUS E. DIETZ,
D. E. MACK,
E. H. BREWSTER,
JOHN L. DRYER,
EDWARD M. CORLETT,
Committee.

THE PRESIDENT. Under the rules, the report of the committee will lie upon the table and be printed.

Your Committee on Distinction Between Constitutional and Legislative Subjects, to which was referred Proposal number ninety-eight (98) entitled, "In Relation to Athletic Exhibitions," reports that it is the opinion of the members of the committee that said proposal is a legislative and not a constitutional subject.

Therefore, your committee recommends that the said proposal do not become a part of the proposed Constitution.

Respectfully submitted,

CYRUS E. DIETZ,
D. E. MACK,
WILLARD M. McEWEN,
E. H. BREWSTER,
JOHN L. DRYER,
EDWARD M. CORLETT,
Committee.

THE PRESIDENT. Under the rules, the report of the committee will lie upon the table and be printed.

Your Committee on Distinction Between Constitutional and Legislative Subjects to which was referred Proposal number one hundred and forty-eight (148) entitled, "To Prevent Monopolies," reports that it is the opinion of the members of the committee that said proposal is a legislative and not a constitutional subject.

Therefore, your committee recommends that the said proposal do not become a part of the proposed Constitution.

Respectfully submitted,

CYRUS E. DIETZ,
D. E. MACK,
WILLARD M. McEWEN,
E. H. BREWSTER,
JOHN L. DRYER,
EDWARD M. CORLETT,
Committee.

THE PRESIDENT. Under the rules, the report of the committee will lie upon the table and be printed.

Your Committee on Distinction Between Constitutional and Legislative Subjects, to which was referred Proposal number one hundred and fifty-seven (157) entitled, "Relative to the Charters of Benevolent and Fraternal Organizations, including those heretofore organized and those to be organized in the future," reports that it is the opinion of the members of the committee that said proposal is a legislative and not a constitutional subject.

Therefore, your committee recommends that the said proposal do not become a part of the proposed Constitution.

Respectfully submitted,

CYRUS E. DIETZ,
D. E. MACK,
WILLARD M. McEWEN,
E. H. BREWSTER,
JOHN L. DRYER,
EDWARD M. CORLETT,
Committee.

THE PRESIDENT. Under the rules, the report of the committee will lie upon the table and be printed.

Your Committee on Distinction Between Constitutional and Legislative Subjects, to which was referred Proposal number one hundred and eighty-six (186) entitled, "A Proposal to embody in the article of the new Constitution in relation to taxation the following provision imposing the duty on the owners of property to list the same for taxation and providing remedies for failure to do so," reports that it is the opinion of the members of the committee that said proposal is a legislative and not a constitutional subject.

Therefore, your committee recommends that the said proposal do not become a part of the proposed Constitution.

Respectfully submitted,

CYRUS E. DIETZ,
D. E. MACK,
WILLARD M. McEWEN,
E. H. BREWSTER,
JOHN L. DRYER,
EDWARD M. CORLETT,

Committee.

THE PRESIDENT. Under the rules, the report of the committee will lie upon the table and be printed.

Your Committee on Distinction Between Constitutional and Legislative Subjects, to which was referred Proposal number two hundred and two (202) entitled, "A Proposal for the manufacture, distribution, transportation or sale of beverage," reports that it is the opinion of the members of the committee that said proposal is a legislative and not a constitutional subject.

Therefore, your committee recommends that the said proposal do not become a part of the proposed Constitution.

Respectfully submitted,

CYRUS E. DIETZ,
D. E. MACK,
WILLARD M. McEWEN,
E. H. BREWSTER,
JOHN L. DRYER,
EDWARD M. CORLETT,

Committee.

THE PRESIDENT. Under the rules, the report of the committee will lie upon the table and be printed.

Your Committee on Distinction Between Constitutional and Legislative Subjects, to which was referred Proposal number two hundred and twenty-four (224) entitled, "A Proposal to prohibit options in purchase and sale of commodities and dealing in stocks by margins, or in lottery," reports that it is the opinion of the members of the committee that said proposal is a legislative and not a constitutional subject.

Therefore, your committee recommends that the said proposal do not become a part of the proposed Constitution.

Respectfully submitted,

CYRUS E. DIETZ,
D. E. MACK,
WILLARD M. McEWEN,
E. H. BREWSTER,
JOHN L. DRYER,
EDWARD M. CORLETT,

Committee.

THE PRESIDENT. Under the rules, the report of the committee will lie upon the table and be printed.

Your Committee on Distinction Between Constitutional and Legislative Subjects, to which was referred Proposal number two hundred and eighty-eight (288) entitled, "A Proposal to prohibit persons or corporations from entering into agreement to fix or establish the purchasing price or selling price of food commodities," reports that it is the opinion of the members of the committee that said proposal is a legislative and not a constitutional subject.

Therefore, your committee recommends that the said proposal do not become a part of the proposed Constitution.

Respectfully submitted,

CYRUS E. DIETZ,
D. E. MACK,
WILLARD M. McEWEN,
E. H. BREWSTER,
JOHN L. DRYER,
EDWARD M. CORLETT,
Committee.

THE PRESIDENT. Under the rules, the report of the committee will lie upon the table and be printed.

THE PRESIDENT. Any further reports of standing committees?

The Committee on Qualifications and Election of Delegates submits a report.

The Committee on Qualifications and Election of Delegates, to whom was referred the matter of the complaint of Robert Emmet Burke concerning the election held in the 31st Senatorial District, would respectfully report that they convened and that due notice was sent to Mr. William H. Beckman and Mr. Eugene H. Dupee, delegates heretofore seated as delegates of this Convention upon their taking the oath of office as such delegates, and to Mr. Robert Emmet Burke, of a hearing before the committee, to be held on March 3, 1920, at 2 p. m., in the committee room of this committee in the Capitol Building, city of Springfield, on the said complaint; that the complainant, Robert Emmet Burke, did not attend upon such notice; that a hearing was had wherein it appeared that on the holding of the said election the candidates received the votes, respectively, following:

William H. Beckman.....	9,141
Eugene H. Dupee.....	8,576
Donald L. Morrill.....	4,654
James F. Burns.....	4,487
Robert Norburg	1,350
Robert E. Burke.....	2,452
John Vogel	1,404

and that Certificates of Election were duly issued to William H. Beckman and Eugene H. Dupee, respectively, and that Commissions signed by the Governor under the great seal of State were likewise afterwards issued to them, and that they appeared before the Convention and took the oath of office and were duly enrolled; that no evidence was adduced before the committee of any irregularity, fraud or error in the holding of said election, and they, therefore, report that the said complaint has no foundation, and that the same should stand dismissed, and the action of the Convention heretofore in seating said William H. Beckman and Eugene H. Dupee should be final and undisturbed.

Respectfully submitted,

OSCAR WOLFF,
JOSEPH W. FIFER,
MICHAEL ROSENBERG,
WILLARD M. McEWEN,
GEORGE C. GALE,
GUY L. SHAW,
Committee.

(Report adopted.)

Whereupon the Convention further proceeded upon the order of reports from select committees, introduction of proposals, first and second reading of proposals, motions and resolutions, unfinished business, general orders of the day.

THE PRESIDENT. When the Convention adjourned on yesterday, it was the hearing the report in Committee of the Whole of the Committee on Public Works and Improvements. That report is still pending.

Mr. LINDLY (Bond). Mr. President, there is not present this morning a quorum, and I raise the point of order of a quorum. Call the roll on the proposition.

THE PRESIDENT. The Secretary will call the roll.
(Roll call.)

THE PRESIDENT. Please call the absentees.
(Roll call of absentees.)

THE PRESIDENT. The Secretary advises the Chair that the roll call discloses that there are forty-eight delegates present. There being no quorum present, what is the desire of the Convention?

Mr. SHANAHAN (Cook). Mr. Paddock is here, and I was talking with him. The record ought to show that he was here.

Mr. SUTHERLAND (Cook). Mr. President, as I came in I met Judge Hogan. I feel sure he is here.

Mr. SHANAHAN (Cook). Mr. President, I move that the Convention now adjourn until ten o'clock Tuesday morning.

THE PRESIDENT. The question is upon the motion to adjourn until—

Mr. DAVIS (Cook). Mr. President, before the motion is put to a vote: There are undoubtedly some that are absent because of unavoidable reasons. Others are undoubtedly absent because they didn't take it seriously when a week ago we decided to hold sessions on Friday. In their absence, I would like to appeal to the sense of fairness of those who absent themselves on Friday. Some of us have taken the actions of this Convention seriously; and in order to allay all doubt on the subject, the matter was gone into last week and it was decided that beginning this week regular sessions would be held on Friday. It is possible that if another step is taken to make that certain, we will get good attendance next Friday.

I would suggest that the Committee on Rules and Procedure consider the advisability of setting aside hours on Friday for committee meetings.

I might state to the Convention at this time that it has been my experience at some of these committee meetings that an enormous amount of time has been wasted because members who are absent quite regularly appear before the committee once in a while, compelling the other members of the committee to go over subject matters which have been covered. As a matter of courtesy, we keep on doing it from time to time. Now, there must be a stop to it. Summer is near at hand and we haven't made the progress that we should have made, judged by the number of days that some of us have spent here in Springfield.

Before we adjourn, I move that it be the sense of this Convention that the Committee on Rules and Procedure recommend committee meetings on Friday.

THE PRESIDENT. A motion to adjourn is pending. The question is upon the motion to adjourn.

(Motion carried.)

THE PRESIDENT. The Convention stands adjourned until next Tuesday morning at ten o'clock.

Whereupon an adjournment was taken by the Convention to Tuesday, May 4, 1920, ten o'clock a. m.

TUESDAY, MAY 4, 1920.**10:00 o'Clock A. M.**

The Convention met pursuant to adjournment.

The President in the Chair.

Prayer by the Chaplain, the Reverend E. S. Lumsden, pastor of the First Methodist Episcopal church, Dixon, Illinois.

THE PRESIDENT. The Journal of Thursday, April 29, 1920, was placed on the desks of the delegates, on the session held on Friday last, and is now subject to correction. There being no corrections proposed, the Journal of Thursday, April 29, 1920, will stand approved, and it is so ordered.

Whereupon the Convention proceeded upon the order of special orders of the day, reports of standing committees, reports of select committees, introduction of proposals, first and second reading of proposals, motions and resolutions.

Mr. HAMILL (Cook). Mr. President, and Gentlemen of the Convention. A week ago it was agreed upon here on the floor, or at least it was understood by your Committee on Rules and Procedure that the Convention would sit on Friday. Last Friday there were fifty members of the Convention here, just two short of a quorum. Those fifty men stayed here in order that business might be done, and their staying proved entirely futile. Their time is just as valuable as the time of other members of the Convention, and those fifty men were naturally disappointed, and I may say somewhat indignant. Your Rules Committee desires to recommend to this Convention procedure that is agreeable to the Convention. It desires to lay out the work of the Convention so that each member of the Convention may know what he may reasonably anticipate. It cannot do so if the Convention votes to hold sessions upon Fridays, Saturdays or any other day and then does not attend. With a view of ascertaining what is the real sentiment of this Convention there has been prepared a pledge to sit on Friday mornings from nine until eleven-thirty. That was passed around among the members present last Friday morning and was signed by all who were then here. It will now be passed around, and it is desired that those who are willing to stay here and work on Friday mornings, sign it. Those who are unwilling to stay and work on Friday mornings, do not sign it, so your Committee on Rules and Procedure may really know what is the desire of the Convention.

Mr. TAFF (Fulton). I am very much impressed by what the delegate from Cook has said, but with reference to the signing of the pledge, I will say I do not propose to sign the pledge. I have been in this Convention at every session except one since it convened. I do not believe that it is necessary for anyone to sign a pledge, which pledge is in substance only a reiteration of the duty which he owes to the State of Illinois. It is the duty of every delegate to be present at every session of this Convention, and I for one do not care to sign any pledge which it is my duty to fulfill.

Mr. HAMILL (Cook). I quite agree, Mr. President, that the pledges do not add anything to the duties that the delegates already owe. It is not the purpose to add to the duties that this is circulated. It is for the purpose of adding to the information of the Committee on Rules and Procedure. We cannot tell what the Convention is prepared to do unless we find out by some method as this now proposed. It is necessary that seventy men sign this pledge, and I trust those who are willing to remain and work here sign it, and those who are unwilling to stay and work will decline to sign it.

THE PRESIDENT. On one day last week the Convention adopted a report of the Rules Committee recommending a program for committee meetings for last week. The Rules Committee recommends that until further

notice the program adopted last week for committee meetings be continued for this week.

Whereupon the Convention further proceeded upon the order of unfinished business, general orders of the day.

THE PRESIDENT. There is on the calendar for hearing a report of the Committee on Public Works and Improvements. The Convention will now resolve itself into the Committee of the Whole for the purpose of the further hearing on that report and on further matters pending on the calendar. The Chair designates Delegate Wilson of Cook county to act as chairman of the Committee of the Whole.

(Chairman Wilson presiding.)

CHAIRMAN WILSON. The committee will come to order. The Secretary will read the minutes of the last meeting.

(Minutes of last meeting read.)

Mr. GALE (Knox). Owing to the parliamentary situation that has arisen here on account of the numerous amendments offered and also because I am convinced that the amendment which I offered the other day to the amendment offered by the delegate from Mercer (Carlstrom), if it should pass at all, should not be passed in connection with this article, I desire to withdraw the amendment to the amendment of the delegate from Mercer.

CHAIRMAN WILSON. As the Chair understands it, the motion will now be on the substitute amendment of the delegate from Cook, Mr. Sutherland.

Mr. CORLETT (Will). I am opposed to the amendment offered by the delegate from Mercer, and also to the amendment offered by the delegate from Cook. I was in favor of the report of the committee as submitted to this Convention and in favor of the report of the committee as it has been amended, and I would have been glad to have voted for either of these proposals at any time, but in this connection, Mr. Chairman, I wish to call the attention of the Convention to the fact that the section of our present Constitution relating to canals and waterways has been many times before the Supreme Court of this State and construed by that court. We know reasonably well what it means. The department having in charge this work can proceed under the present section of our present Constitution and know that the bonds issued will be valid, and are authorized by the State of Illinois, and I feel Mr. Chairman and gentlemen of this Convention, that if that section is rewritten and the numerous amendments that have been made and probably will yet be offered are incorporated in it, we will again pass through a period of five or maybe ten years before these questions will have been litigated and the construction of the proposed amendments declared by the Supreme Court of the State of Illinois. And now, Mr. Chairman, if the State of Illinois has declared any one policy more emphatically than any other policy in this State, it is that the State will never permit water power along the DesPlaines River to be developed by private enterprise. Twenty-five years ago a syndicate was organized for the purpose of developing the water power at Brandon's Bridge about three miles south of the City of Joliet. The Sanitary District claimed that they had turned the water into the DesPlaines River and made the water power possible, litigated that question and the litigation finally resulted in a decision which prevented this syndicate from developing the water power, and at that point according to the estimate of as good an engineer as Isham Randolph, there is a water power potentially of some thirty-eight thousand horse power, and then fifteen miles South of Brandon's Bridge is what is known as Dresden Heights, and some twenty years ago, the Economy Light and Power Company of Joliet, now a part of the Public Service Company of Northern Illinois, attempted to develop water power at that point, estimated at some twenty-eight thousand horse power. They started the work and began the construction of their dam, and the State of Illinois on the relation of Charles S. Deneen, the then Governor of this State, filed a bill in equity to enjoin the further construction of the dam and to compel the removal of the parts of it then constructed upon the ground that the DesPlaines River is a navigable stream and the obstruction would impede the water transportation and

navigation of the river. That case in the state courts was decided adverse to the State, and then the matter was taken up by the Federal government and decided, I understand, in the lower courts in favor of the State and against the Economy Light and Power Company, which decision was confirmed by the court of appeals, and as I understand from the statement made by Mr. Bennett when before this committee the other day is now pending in the Supreme Court of the United States, and so, gentlemen of the Convention, I submit that the water power in this stream ought to be developed by someone, and for twenty-five years the State of Illinois has prevented the development of it by private enterprise and there is no indication that the State will ever permit the development of this tremendous power, which at Brandon's Bridge, Dresden Heights, Marseilles, and Starved Rock aggregate according to the estimate of Mr. Randolph a potential water power of one hundred forty thousand horse power. Now, I have reached the conclusion there is so much difference of opinion as to what the provision of the Constitution we are now writing should be in regard to this matter, that the present section of our present Constitution relating to canals is probably after all the best that can be secured for this enterprise at the present time, and being of that opinion, Mr. Chairman, I offer as a substitute for Proposal 354 as amended, and all pending amendments, the section of our present Constitution relating to canals and as amended in 1908, and I move its adoption.

Mr. GALE (Knox). I rise to a point of order. There is now pending before us the report of the Committee on Public Works and Improvements, and the amendment offered by the delegate from Mercer; there is also pending a substitute for that amendment offered by the delegate from Cook. The rules of this Convention provide that we shall be guided by Cushing's Manual, which says that there shall be one amendment offered and an amendment to that amendment substituted for it, but there may not be three amendments, or substitutes, or two substitutes and an amendment, and I therefore make the point of order that the substitute offered by the delegate from Will (Corlett) is out of order.

Mr. CORLETT (Will). This is offered as a substitute for the proposal and all pending amendments, and I submit it is proper, and will continue to believe that it is unless the delegate from Knox has Cushing's Manual, and will read the rule he relies upon.

Mr. SUTHERLAND (Cook). I will withdraw my amendment in favor of the substitute offered by the delegate from Will. It occurs to me that there is a great deal to be said in favor of retaining adjudicated portions of the Constitution, and while it does not quite meet the situation as I see it, I will withdraw my substitute in favor of the amendment of the delegate from Will county.

Mr. CARLSTROM (Mercer). I am getting a great deal of pleasure out of this discussion. I did not quite appreciate the opening remarks of the gentleman from Will when he said he was in favor of the report originally as amended, but was opposed to the amendment of the gentleman from Mercer, and the other amendment, because the amendment I offered on last Friday was offered for the distinct purpose of reincorporating in this report of the committee what I believe to be some of the salient features of the present section of the Constitution, and if the gentleman will refer back to what I believe is Proposal No. 4 he will find that the gentleman from Mercer requested that this section in the first instance be retained in its entirety as a part of the new Constitution, and it was only because some of its salient features were being left out that this amendment was offered, and I take great pleasure in view of the fact that the gentleman from Will, and others by agreement, are returning to the original provision presented by me, in withdrawing the amendment I offered and in giving way to the amendment of the gentleman from Will.

Mr. CORLETT (Will). I did not mean to hurt anybody's feelings. I thought I made it clear that while I favored the original report of the committee, yet I believed that—

Mr. MORRIS (Cook). Point of order. The proposed amendment to the amendment has not been read. We do not know what the gentlemen are talking about, and nothing is in order but the reading of the paper passed up.

Mr. CORLETT (Will). —and believing that this is the best that can be done at this time, and always willing to accept what I believe to be the best that can be done, and being a friend of the enterprise, I offer this substitute amendment.

CHAIRMAN WILSON. Will the Clerk read the amendment offered by Mr. Corlett.

(Clerk reads amendment.)

Mr. HULL (Cook). May I ask a question of the gentleman from Will. Suppose the money provided by the present law which is being incorporated in your amendment, twenty million dollars therein provided, is not sufficient, what are the necessary steps thereafter, a further Constitutional amendment, or may the legislature pass an act under the legislative article and have that referred to the people for popular vote approving the issue of that original bond?

Mr. CORLETT (Will). There is provision here that surplus earnings be included for the maintenance or enlargement of the enterprise, and I take it that the State is reasonably safe on proceeding with the twenty million, if they begin to develop this water power. How they are to get further money in the matter I have not given any consideration.

Mr. HULL (Cook). That was my question, and you have answered it.

CHAIRMAN WILSON. The question is on the amendment offered by the delegate from Will.

Mr. LINDLY (Bond). When I offered this report of the committee, I made a statement on this floor that a discussion of the deep waterway was not in place, that as to whether it was prudent to construct it or whether it was to the best interests of the country to construct it was not a question before this body. It has been voted upon by the people, the legislature has passed enactments authorizing the issuance of the bonds and the expenditure of the money, and that the only question to consider here was how to protect the interests of the State in the expenditure of this money in the construction of this canal, and while I do not think it is proper to take up the time of the Convention in the discussion of this question, I think it would be well for me to add something to what has been said. In 1907, I think it was, as Mr. Corlett said, they came down with a bill from Chicago, the drainage district, and as the speaker has said, asked the General Assembly to permit them to construct the drainage canal to Brandon's Road and give to the drainage district the water power that would be created there. In the long discussion before Congress of the deep waterway from the Lakes to the Gulf, and the efforts on the part of those who were in favor of it, the objection was raised in Congress at all times that, if there was water power to be created in the State of Illinois, and if this water power was to be created, then Illinois should construct this channel, if they expected to benefit from the water power of the State, and that Congress ought not to make an appropriation for that purpose.

Those of us who were in the legislature at that time thought if there could be two million dollars worth of water power created along this channel, that ought to belong to the State of Illinois and that the taxpayers of the State of Illinois ought to have the benefit that would be derived from this water power, and for that reason we opposed the proposition that was before the legislature, defeated the bill, and then the question came up as to how the State could obtain this water power or how the taxpayers could derive benefit from it. The Constitution as it was written, prohibited the appropriation of money for the aid of any canal so it became necessary to offer a constitutional amendment to issue bonds to construct this channel and secure to the State this water power. We offered that amendment before the legislature on the resolution to submit the amendment, and it was carried in the legislature, and we went before the people of the State of Illinois and they voted twenty million dollars worth of bonds. When this

proposition was brought down here the engineers, Cooley and Randolph, I think, had estimated the cost at that particular time would be sixteen million dollars, that sixteen million dollars would complete the channel. I took my pencil and scratched out the sixteen million dollars and made it twenty, so as to have plenty of surplus to construct the channel, and at that time if they had gone ahead with the work it would have constructed it, and we would have had the channel and the water power for many years and the benefit of it during the crisis of the war. This was voted on, and it is now the duty of the State of Illinois to construct this canal.

There may, as I said before, be a question as to what the depth of this channel ought to be. I never could conceive of any reason why, if the legislature in its wisdom in 1889, thought it would be necessary to construct a drainage canal twenty-four feet deep, so it might be a part of the great waterway between the Lakes and the Gulf, why the State of Illinois should add an eight foot channel to this twenty-four foot channel. I do not understand that, and for that reason in all the literature we sent out and all the talks we made in the State of Illinois on this matter we advocated, as the Mississippi Valley Association advocated, a fourteen foot channel through the valley with mitre sills twenty-four feet deep, so when the time came they could construct the same depth as the Chicago Drainage Canal.

Now, the question comes up, and they say that this water power never can be created. I would like to ask any of this Convention to go up to Lockport and see what is done there, and see what is created there, and if this water flowing over that dam will create this water power, why won't it create water power flowing over any fall between there and Utica. There could be no objection to that. Some of the members of this Convention think it might increase the overflow in the Illinois Valley, but I cannot see that contracting this water into a channel would increase the overflow. Some of them say they might turn more water into this channel, but under the law as I understand it, they must run through this channel four thousand cubic feet of water per second, and as Mr. Bennett has said, there is now running through this channel from eight to ten thousand feet per second. Four thousand would construct the waterway and keep it in shape.

Then they say they cannot improve the Illinois River, and I am speaking of it because I know some opposition has been spoken of on this floor, and I say the only way they can redeem the land in the Illinois Valley is through the Illinois River, but they say it cannot be done. This "Club of Cannot-Be-Dones" is not a new thing. It is as old as the time when man commenced to make progress. They said when this government was formed that it could not be done, that no republican form of government could long endure, but it has endured and is now the greatest government not only of modern times, but of all times. I can remember when I was a boy when they were constructing the Eads Bridge down at St. Louis. They said it could not be done, but they did construct it, and for fifty years it has carried the commerce across the Father of Waters, and when Mr. Eads wanted to construct the Mississippi jetties, they said it could not be done, even the army engineers said it could not be done, and they would not assist him, but private enterprise went ahead and put the jetties in, and after they were in the government went further down the mouth of the Mississippi and constructed jetties thirty-five feet deep, and it could be done. For four hundred years they dreamed of the Panama Canal and said it could not be done, but they did construct the Panama Canal, American engineers and American energy, and today it stands an open gateway through which the Occident salutes the Orient. They said when they were building the village of Chicago that it could not be done because of the sand; they said it could not build a foundation for the buildings, but they have built them strong and deep, and today the buildings there are towering skyward to the light, and although they said it could not be done, Chicago has become the second city in this nation, standing out like a diamond on the bosom of this nation, not only the pride of Illinois but the pride of the United States. (Applause.)

So, Mr. President, I say that it may be a dream, it may be a fancy, it may be a hope, but we will see the day when the great waterway from the Lakes to the Gulf will be constructed, and I do not believe that this Assembly or this Constitutional Convention ought to throw anything in the way of improvement of this great enterprise. They said when they dug the canal that it could not be constructed, the drainage canal, but, my friends, it is today the greatest inland waterway in the world, the greatest enterprise accomplished by any corporate city, and when the history is written of this great enterprise and when the fathers and mothers tell in the times to come, who was largely responsible for the construction of it, the name of Joseph Fifer will stand first among them when he signed the bill to make this a law, and Governor, when I heard you the other day, sarcastically calling this a drainage ditch, it sounded like a parent calling its offspring names. (Laughter.)

Now, Mr. Chairman, it seemed to us in the committee there was one thing that ought not to be done, and the thing we want to avoid if possible, and that is, the destroying of this canal, and it says here "there shall be paid into the treasury," and so forth. We all know that was one of the great things that prevented the construction or aid of this canal, that by paying this money into the treasury that no money could be appropriated out of the general funds for the improvement of the canal. Now, this provides that there shall be paid into the general funds. Now, then, to adopt this amendment, how are you going to get any money out of it from the earnings of the canal to assist in the completion of this work? If it produces two million dollars a year I submit that ought to go toward the maintenance and improvement of the canal, if necessary, and I don't want to get into the position that we were in the I. and M. canal, when this money gets into the treasury, it cannot be appropriated out again. For that reason, we left it out. It has been asked how are we going to get money to construct this great improvement if it is needed, if it is necessary to issue more bonds and you leave it as it is, what will be the result? We will be in the same condition as in 1807, when they wanted to make appropriations for this, it would be necessary to amend the Constitution again. Why not leave this thing so if the people want bonds they can vote for them and not amend the Constitution? That is the reason why I was in favor of leaving this out. Gentlemen, the committee wants to do whatever is in the interest of this great enterprise, we want it to go on, and although it is not what we expected originally, yet it is the beginning and the result will be apparent to everybody who believes that the improvement can be made and progress can be done. (Applause.)

Mr. FIFER (McLean). Without any flattery to my friend from Bond, I am sure we have all been entertained and instructed by his very eloquent speech, and I have been reminded how brief in the recorded history of man is the little span of civilized America, and yet how marvelous in the retrospect seem the achievements wrought here by unshackled manhood in the four centuries since Columbus planted the cross upon San Salvador. Since that time we have tunneled our great mountains, we have bridged our mighty rivers, we have waded the Atlantic Ocean and bound together the two sides of the world by telegraph wires.

And now, my friends, we are just on the threshold of the greatest enterprise that ever flashed in the imagination or taxed the energy of a great people. You know to what I refer, and when the deep waterway from Lockport to Utica, the two great commercial cities of our State is completed, the glad tidings will be flashed under all the waves of the sea and the world will be amazed at the completion of so vast an achievement.

Now, you heard the testimony of the gentleman who belongs to the Industrial Commission. You heard my cross-examination of the distinguished member from Cook who some day I hope to see Governor of the great imperial State of Illinois (applause), and it was clear to all that the deep waterway meant a ditch at the terminus of the works of the drainage district of Chicago at Lockport to Utica, and it in effect was to take the place of the old Illinois and Michigan Canal which lo, these many days, has

been given over, to the bull-frogs and the tad-poles. Now, what commerce is to be carried from Lockport to Utica has not been disclosed. I suppose that Utica will send catfish and eels from the Illinois River to Lockport in exchange for the gravel and sand of Lockport; I asked Mr. Bennett when he got these ships, these ocean-going vessels, from Lockport down to the Illinois River, what he proposed to do with them, and he said he did not know, the inference being that he was going to turn them over to the kindly interposition of Providence. Nobody on earth I suppose could tell, not even the angels in Heaven. Now, my friend has alluded to the fact that I signed the bill creating the Sanitary District of our great city by the lakes. That is not exactly correct, because that would have been 'special legislation, but I did sign a bill making it lawful to establish sanitary districts of that character. It pointed unmistakably to the City of Chicago; there was no other section or quarter of the great State of Illinois to which that bill could apply except the City of Chicago. They came down here singly and in cohorts and went before the committee having the bill in charge and I went almost invariably when those hearings were to be had before the committee to listen to what was being said. I knew the influence and the power that was behind the measure and I believed that the General Assembly would enact it into law and that finally it would be before me either for my signature or a veto message, and all the discussions were to the effect that the rivers, the DesPlaines and the Illinois, and their tributaries, would not be corrupted by the sewage of that great city. It was, I think, without exception *ex parte* hearings before that committee. There were no objectors, as I remember, and I have stated the substance of the evidence, which was that they would not corrupt the rivers or the valleys. Why, gentlemen, they were so positive about it they almost made one believe that they would sweeten it up a little, and there was some talk in regard to a deep waterway. That was dangled before the eyes of the members living along the valley of the DesPlaines and the Illinois Rivers, and they pretended to see, as in a vision, great ocean-going steamers puffing smoke and fire like a young Vesuvius coming down that channel and passing out through the Illinois River to the Gulf of Mexico. (Laughter.) And now, it was a serious problem that was presented to me at that time, and I never wish to be placed in a similar situation again. I took what they said in regard to polluting the streams and overflowing lands below, with a grain of allowance. I was fearful that the sewage of that great city, knowing it would increase day by day and year by year, would pollute those streams and the shores, and at some time in the future a great epidemic might sweep along those valleys and kill hundreds and thousands of our fellow citizens. On the other hand, there was the great City of Chicago, the great imperial city of which we are all so proud today. I was on the Interstate Commerce Commission and I traveled from ocean to ocean, from the Lakes to the Gulf many, many times. I suppose my travels would average possibly thirty or forty thousand miles each and every year I was a member of that commission, and when I was away from home, wherever I was I always spoke with great admiration of the great City of Chicago and felt proud that it was the second city in the United States. It sounded big and I swelled up when I said it, and I have always entertained, as I entertain now, the most kindly feelings towards that city. I saw not only its present greatness but its future greatness, and the years are not far distant when Chicago will be the greatest city on the American continent, if not the greatest city in the world. (Applause.) Now, that city had been suffering by reason of the impure water for culinary purposes for many years. All the sewage was emptied into Lake Michigan in front of the city. They ran their pipes out every few years, as my friend knows, a little further and a little further to what they called the crib, and as they moved out for fresh water, this death-dealing sewage spread out and kept pace with it, so they were confronted with the proposition of pure water. Under the circumstances it was impossible longer to take their supply from Lake Michigan. Many deaths had occurred and were occurring that were traced, as their physicians and their most intelligent citizens believed, directly to the impure

water that they are using. Now, under those circumstances, I signed the bill and they promised at the time not to pollute the streams. I do not regret it, I have no apologies to make for having signed that measure. If I had it to do over again, in the light of subsequent events, I would require before it ever received my signature more rigid safeguards for the protection of the people along the valleys of the DesPlaines and the Illinois Rivers, who were in no wise responsible for the sewage of the City of Chicago. Now, then, after the bill was signed, agitation commenced in regard to lengthening it. They wanted to extend it from Lockport to Utica on the Illinois River, a distance of about fifty-five miles. Utica, as I remember it now, is a little city three miles below Ottawa, on the banks of the beautiful Illinois. Utica, that is a beautiful and a euphonious name. I suppose it was named after Utica of ancient times; a city that was builded five hundred or more years before the Christian era, down at the foot of the Mediterranean Sea. Its inhabitants, as you know, joined the Carthaginians in the great Punic Wars to destroy and overwhelm the Roman Empire. They were a commercial people and an enterprising people, and I suppose our friends who builded the Utica on the Illinois River possibly may have given it that name for the reasons I have stated.

Now, when the idea got into somebody's head about a deep waterway, and about water power, they yoked those two terms together, "waterway" and "water power," and they have been yoked together ever since. Like Castor and Pollux, twin brothers, who were always found together and always together for mischief. Now, they have yoked, as I say, those two propositions together. Let's deal with them separately. If they can not succeed in making an ocean-going canal from the Lakes to the Gulf, of which we have heard so much, then it will be of no use to the people of our State or to the people of this great country of ours, it will only be fit for internal commerce. I want you gentlemen to call to mind if the railroads have not taken the commerce, both passenger and freight, or practically so, from all the rivers of Illinois and put it on the rails. We have an example right before our very eyes, the lower Mississippi. Why is it, let me ask you, that the commerce of that great river has been relegated to the limbo of the past? It is by reason of the fact that railroads are the modern way of carrying both freight and passengers. When a member of the Interstate Commerce Commission, I passed up and down that river many times. We had hearings at Memphis and hearings at the City of Vicksburg, where I fought during the Civil War. Those two places are known as distributing points. Now, the cheapest way that freight can be transported, is in barges towed or pushed by a stern wheel boat. They would get their barges in that way to Memphis, and when they got there it was a long distance down to the river's edge. And how were they to get those loads of grain, for instance, from the barge up to the elevators? No other way except to go down with carts, men with shovels and load the carts and haul it a distance of nearly two miles to the elevators. It was then distributed for hundreds of miles around by the railroads. Practically the same thing was in vogue at Vicksburg. Now, it was found, and it was frequently testified, that that kind of river transportation could not compete with railroad transportation. The Illinois Central Railroad serves all the grain fields of the great Northwest. That road traps, as with a network, the State of Illinois and is carrying the grain to the Gulf.

The harassing and embarrassing fact for those who contend for the rivers is that the railroads have taken the commerce of the lower Mississippi and put it upon the rails, and there it will remain until we find some better method of river transportation than we know of now. Years ago I read in the Sunday Tribune of Chicago, the greatest newspaper in the world, an article headed with great headlines, "The decadence of the commerce of the lower Mississippi," and they had pictures of the old steamboats that formerly plied between St. Louis and New Orleans, idly rotting at their anchors in the great City of St. Louis. I do not know what the condition is in recent years, but I have traveled the Illinois River many, many times from its mouth up as far as Peoria, and sometimes as far as the City of

LaSalle. I say I do not know what the condition is now; at the time of which I speak it was plied by two old stern wheeler steamboats that ran between St. Louis and the City of Peoria, and I do not believe they drew more than two or three feet of water, and in low tide they could scarcely make the round trip without getting sand-barred many times before they made it. Now, I have talked with my friend here and I avow there is nobody in the great State of Illinois for whom I have a greater regard or a warmer friendship. I have said to him "in the name of all the Gods at once," as the Romans would say, "when you get your big ocean-going steamers down to the Illinois River, how are you going to get them to St. Louis?" He said we are going to dredge the Illinois River, make a deeper channel. I replied: "Don't you know in the first spring flood the sediment would settle in the deep channel and you would not know there had been any channel there in six months after you dug it?"

He said he thought not. I do not believe there is an engineer of fair average intelligence between the two oceans that would not tell us that it would be a silly farce and a waste of time to try to dredge that river. They have put dams in that river and now it is proposed to take out the dams for the reason that the dams injure navigation instead of benefitting it.

And now the engineers, I believe, tell us those dams must come out. Now you pour into those rivers a flood of water, three hundred thousand cubic feet every minute, as it is proposed, and what will result? The law contemplates that they may pour into those rivers no less than six hundred thousand cubic feet of water per minute—that, taken with the natural floods that those banks must hold, and what will be the result? Overflow, of course. For navigation the Mississippi is one of the most treacherous rivers in the world and can never carry sea-going vessels from St. Louis to New Orleans. There is no river that changes its course so rapidly and repeatedly as the Mississippi. Now, take the first capitol of our State, Kaskaskia. The commerce of that river goes between us and that city and two years hence it may be two miles to the west. Now, under those conditions how can any man argue that that river could be made to carry ocean-going vessels? I have talked with many great engineers and they say it can never be done. The only possible means for a deep waterway, as they tell me, is to build a canal from Cairo to New Orleans. They will have water enough to fill it and it must be cemented or walled. Now that is the only possible way to get a deep waterway to New Orleans, but this other proposition is absolutely chimerical, it is a will-of-the-wisp; if you should live one thousand years from now you would never see it consummated, in my judgment.

I hope I have as much courage as my friend. I hope my vision of the great people is as bright as his, but there are things, it seems to me, that are out of all question and this is one of them. They are going to develop water works. Of course, the State has nothing to do with the water works on the ditch that Chicago dug for its drainage, but it is going to dig a new ditch. Well, what then, when you get it dug? Well, we will erect great water power to develop electricity. Suppose that some one previous to this time had gone over the State of Illinois and suggested that we take Fox River or that we take the Illinois River, or we take the Kankakee River, and go to work and prepare water power to manufacture electricity; or suppose that they had purposed to go over here at Keokuk and build a dam across the Mississippi. What would you have thought of it? You would have said such person was out of his mind and ought to be shut up in an insane asylum. The idea that the great State of Illinois would go back to the midnight of the thirties and early forties and go into this public improvement business that swamped the State and made it bankrupt, seems out of the question. Well, if you should not do that why do you go into this? Is there any better reason for it? Now, we do not own the land along the DesPlaines River and that is where they propose to establish these manufactories. Those rivers are owned, as the law says, by the riparian owners, and Governor Deneen asserted the right of the State to the banks of these rivers, and he went to the Supreme Court of Illinois and

was beaten on that proposition. Not satisfied with that, they went into the Federal Courts of Chicago, the district court of that city and the court decided the question in favor of the State. It went to the court of appeals, also in the City of Chicago, and the decision of the lower court was affirmed, and now the question is pending in the Supreme Court of the United States. I do not know on what principle the Federal Courts of Chicago could decide that case, especially when the highest court of our State had turned it down.

I may not be much of a lawyer, but I venture the prediction that when the decision is finally reached in the august Supreme Court of the United States, the decision of the Supreme Court of Illinois will be sustained. Now, as to the pollution and the overflow of the DesPlaines and Illinois Rivers. I invite every member of this Convention to read the reports made by the officials of the Sanitary District of Chicago and the supplemental reports made by the engineer of that district, and a committee, and two reports from their attorneys. They all agree on one thing, and that is that there is great pollution of those river valleys; that it must be taken care of. The stock yards of Chicago have added wonderfully to the burden of that drainage district, and I understand from these documents the officials of the drainage district have entered into a contract with those running what is called packing house industries, whereby those gentlemen, the packing houses, are to pay sixty per cent of the expense of doing what? Not digging ditches, but turning sewage into the already constructed Chicago Drainage District—what? To erect purifying establishments where that refuse can be treated and its most offensive particles eliminated, and they say further, if I read correctly, that that must be done with all the sewage of the City of Chicago; that the stream can not bear it. They must take out the most offensive particles. Now, then, in these hearings before the committee in 1889 all the different methods of dealing with the sewage of great cities were discussed by men who pretended to be informed on those subjects, and it was stated that in most of the civilized nations of the world sewage was treated and made into fertilizers and sold and went out to enrich and fructify the soil. That was true, if I remember correctly, especially of Austria, and I believe Germany, and if any of you have ever read Victor Hugo on the great silt of turning the sewage of the City of Paris into the Seine you will understand the question before us. These gentlemen, in this book I hold in my hand, discuss all those questions and practically say that the Federal government will never permit them to take water enough from Lake Michigan to dilute sufficiently the sewage so it will not be offensive and dangerous to the people living along those valleys. It is plain that no more water can be taken from Lake Michigan, and if the sewage is treated they will need no more—what then, let me ask, becomes of the deep waterway? When the discussion about the deep waterway began no money could be appropriated for that purpose and why? Because the people of Illinois had their fingers burned under the old Constitution in schemes of that kind and the State was made bankrupt and they provided in the Constitution of 1870 against it; the Constitution was in the way. What was done? My friend here says that the people down State wanted to utilize the water power, but my friends, he has information on that subject that never came to me. I believe if there is anything the people down State are not in favor of it is the proposed deep waterway and the proposition to erect those manufacturing institutions. If it had to be voted on today I do not believe they would get one-tenth of the voters down State ever to approve of it. Now, my Chicago friends, there is no controversy between us respecting this matter. You have got your drainage ditch, and I helped to give it to you. Now, do not force on us and on yourselves a drainage ditch simply for manufacturing purposes, the deep waterway that leads from Lockport to Utica and then stops. Now, my friends, if we open the door to that, if that ditch is dug and those factories erected you will find that you have created an insatiable maw that will consume the resources of Illinois for many years to come. If you open that door to a "Mulberry Sellers" scheme of that kind at every legislature the officials

of that institution will come here and sit down, gaunt and hungry, in front of your treasury doors demanding more and more and ever more money. You will be pouring money, in my judgment, into a rat hole. The time to stop this thing is now. The people of Illinois have sold no bonds; the bonds of that twenty million have been printed but not issued; they are in the treasury vault of the State. Nobody will be swindled. As I understand it, they are waiting for the decision of the Supreme Court of the United States determining the riparian rights, these water rights on the DesPlaines River, and if that is favorable then I suppose the bonds will be sold and it will be too late to act. I would be the last man in this great State of ours to ever betray the honor of the State, but the bonds are still ours and we can get out of this business with dignity and honor if we wish.

We are at the parting of the ways, and this Convention should decide whether we are going on with this enterprise or whether we shall declare it a mistake and retrace our steps. Now, which will you do, my fellow citizens? There is no conflict, as I have said, between our friends from Chicago and ourselves. We want to treat you fairly and I think you will find we will always do that, but we want you to help us correct this great mistake. There is nothing in it. There may be good water power there if they get the government to turn in more water from Lake Michigan, but there is good water power at other places. Why not go there and escape the digging of this great ditch, my friends? But they tell us, I have heard it, of the commerce and the passengers that will ride up and down that ditch. Why, my friends, it would be the most useful river, as they tell it, in the known world; it would be a deep waterway for ocean-going vessels; it is to be used for local traffic, it is to be a sewage ditch for Chicago, and it is to be a stream to "turn all the countless wheels of toil." It is an open secret that the people who built the dam at Keokuk spent about twenty-five millions of dollars, and it is a well known fact that it has lost money from the day that it went into operation down to the present. What information did the legislature have? What information has this august body that it would be a paying enterprise? Have we compared conditions along that ditch with conditions at other places? Now, at Niagara Falls it has been a success because there was nothing to do but erect buildings, and there was an everlasting, never-ending flow of water, but there is nothing like that there.

Now, I have talked longer than I intended and possibly longer than I should, and in conclusion I will say that knowing that ditch as I do and the refuse matter that is sent down it, the passengers that take one ride on that river will remember it so long as they live, and after smelling the delicious odors ascending from that beautiful river they will never want to take another ride. Now, many of the rivers of the world have been celebrated in story and song, the Rhine and the beautiful Blue Danube have been immortalized, but the poet, the genius has not yet been born who is able to immortalize the beauties and the grandeur of that enchanted stream connecting Lockport and Utica, known as the Chicago Ditch. (Laughter and applause.)

Mr. LINDLY (Bond). Mr. Chairman, I do not wish to prolong this discussion, but I can not let go unchallenged one or two statements just made. I do not possess the capacity for sarcasm and ridicule that my friend, the Governor, does. I think it is not argument, but when he said no engineers had ever said that the Illinois River could be improved, he was wrong. Mr. Coolley, the greatest water engineer, acknowledged to be throughout the United States, I think, said that it could be improved, and I have read the reports of the engineers where they have declared that a fourteen foot channel from the Mississippi to Chicago is feasible. I just want to make that statement because that is absolutely true and refutes the argument he has made. He has talked about the Mississippi River. Let me say one word about that, and I refer to the canal. Let me call your attention to the fact that when we discussed this deep waterway I was invited by the Union League Club to discuss it before them, and they invited the great engineer, who afterwards became the engineer of the Pan-

ama Canal to discuss that question and he made one of the best speeches I ever heard upon it, and this was the proposition, carrying out the suggestion the Governor made. He said that the feasible way to construct this deep waterway was to dig a canal from New Orleans to Cairo, which would shorten the river route four hundred miles, and he stated at that time that this canal should be thirty-five feet deep and four hundred wide, cemented on the sides, and declared at that time it would only cost four hundred million, and he said it could be made deep from Cairo to East St. Louis by two dams, and from there up to Chicago the engineers agreed it could be made as deep as we wanted it. I wanted to correct this statement of the Governor. I care not for his sarcasm; he can talk about this canal stopping at the Illinois River; no man ever dreamed of this improvement stopping at the Illinois River. Why, my friends, today in Detroit the Governors of all the Western States as well as those from Canada, are gathered to discuss the proposition of making a route for ocean-going vessels through the St. Lawrence. Why should we in this part of the country try to put an ocean-going way through the St. Lawrence when it could, regardless of the sarcasm of the Governor, be built to New Orleans? I say to you men here today that no nation with thirty-five hundred miles across it East to West and with this waterway through the center and the condition of the railroads as they are now, not capable of carrying the freight, would long allow this condition to remain, and the time will come when this waterway will be constructed.

Mr. GREEN (Champaign). I rise to make a motion which I hope will meet with the consent of this committee and avoid long and protracted debate on matters which I do not believe serves any good purpose. As this matter now stands on the calendar its present parliamentary status, it is at an issue; the Committee on Public Works and Improvements has presented a proposal which as amended amounts to authorization to the General Assembly for further appropriations in aid of the general plan covered by the constitutional amendment of 1908. The amendment of the delegate from Will, if adopted in lieu of the committee report would operate to limit without further constitutional amendment, the power of this State in its expenditure of about twenty millions of dollars, so that the Convention is now presented with the issue. Shall this matter remain as fixed by the present Constitution with an authorized expenditure of twenty millions of dollars or shall the public treasury be opened by appropriations at succeeding sessions of the General Assembly? It is obvious that there is sentiment in the Convention that if the treasury is to be opened for further appropriations they should be in some manner safeguarded, and the Committee on Public Works and Improvements has not reported on the subject and has not had opportunity to consider just how that security should be preserved. It is also fair to this committee that in the light of the discussion that has intervened since this report was filed and the issue as now presented to the Convention it have the fullest opportunity to prepare itself and provide support of its report. There are indeed serious misunderstandings as to the meaning of the report, and the chairman of the committee is himself a little in error as to the power which would obtain if the amendment offered by the delegate from Will should prevail, because it is provided in that amendment that surplus earnings of any canal or waterway or water power may be appropriated or applied for its enlargement, maintenance or extension, and there seems to be the impression that that condition would not exist if this amendment were adopted. I would like to make this further observation before making my motion. We will necessarily have to adopt some different procedure from that which has obtained in the discussion and consideration of these committee reports, else this Convention will wear itself out in arguing upon the floor matters which should be considered by the committee, and the practice of offering at random from the floor without first having been considered or taken up with the chairman, in my judgment, will have to be changed so that we will not be considering wide departures from the committee report. I therefore move that by reason of the parliamentary status in which this matter now stands,

and it being at a clear issue that this committee recommend to the Convention that Proposal No. 354 now amended and the amendment of the delegate from Will, Mr. Corlett, and the entire subject matter therein referred to, be recommitted by the Convention to the Committee on Public Works and Improvements.

Mr. HULL (Cook). I do not know that I am opposed to this motion, but I think the gentleman has stated an alternative that is not entirely true. Suppose that the amendments that were suggested by Mr. Sutherland (Cook) were out of the way—

Mr. GREEN (Champaign). That is withdrawn.

Mr. LINDLY (Bond). All the amendments except this amendment offered.

Mr. HULL (Cook). Suppose then the committee report as perviously amended were adopted, the situation would not be that the legislature would be entitled to make appropriations in behalf of the waterway without reference to the popular vote. I make that statement of course with the assumption that the Committee on Legislative Article would report back provisions very similar to the provisions in section 8 of the present legislative article, which provides that the General Assembly shall not issue bonds without submitting the question to the voters of the State. I think that should be clearly understood.

Mr. GREEN (Champaign). I believe that is the sense and the spirit of the present Constitution, and may I call your attention to the fact that the Department of Public Works and Buildings is today spending an appropriation of one hundred and forty thousand dollars made by the last General Assembly in aid of this canal in the development of water power, or whatever it may be, which I do not believe is within the spirit of the Constitution.

Mr. CARLSTROM (Mercer). I think if the gentleman from Champaign is right, we have reached an exceedingly happy condition; he says we have a clear-cut issue. If we have a clear-cut issue, let us decide it; if the clear-cut issue is, shall we let down the bars and open the way to an unlimited expenditure, or shall we retain our original limitation, that is indeed a clear-cut issue, and the amendment offered by the delegate from Will presents that side of the angle which limits a full expenditure of this already authorized. In view of the fact we have a clear-cut issue I would like to offer, Mr. Chairman and gentlemen, as a substitute for the motion of the gentleman from Champaign a motion that we close the debate and propose a vote on the question.

Mr. REVELL (Cook). I would like to ask the gentleman from Mercer a question: I would like to ask you if under your idea of this matter the State of Illinois proceeded to expend the twenty million dollars of bonds, if in that case the State would not be permitted to go on with the improvement if the State desired to do it, is that your idea?

Mr. CARLSTROM (Mercer). Absolutely, sir, that is how I shall vote, without there being a proper safeguard for the extensions.

Mr. REVELL (Cook). What about the safeguards, what is your idea?

Mr. CARLSTROM (Mercer). The safeguards are, it will require a constitutional amendment to issue any more bonds.

Mr. REVELL (Cook). Mr. Chairman, I would like to talk a little upon that. I think there is a clear-cut difference of opinion, and I believe—

Mr. DAVIS (Cook). Point of order. I would like, with the permission of the Chair, to read Rule 49, which is as follows: "The Committee of the Whole may at any time close debate and bring a direct vote on any pending proposition upon a majority of two-thirds of the committee present voting on the question and no motion to that end shall be debatable." I understand Mr. Carlstrom's motion is to close debate.

CHAIRMAN WILSON. The point of order is sustained.

Mr. LINDLY (Bond). May I ask the unanimous consent to say one word? I believe, gentlemen, this has been discussed and the condition it is in now that it ought to go back to the committee.

Mr. DAVIS (Cook). Mr. Chairman, I rise again to a point of order.

Mr. LINDLY (Bond). I asked the unanimous consent, did you object?

CHAIRMAN WILSON. The question is on the motion of the delegate from Mercer.

(Motion lost.)

CHAIRMAN WILSON. The question now is on the motion of the delegate from Champaign to recommit.

Mr. REVELL (Cook). I trust, Mr. Chairman, that the motion to recommit shall not be approved at the present time and this matter continued for a little longer, because as I started to say when interrupted by the point of order, I think there is a clear-cut issue here which this committee should decide. That is whether or not we should go on with an improvement that the State of Illinois has already approved or whether we should stop it. I have listened to the eloquent gentleman, the former Governor of this State. His speech was a good one; it contained many beautiful and poetic references. It glowed with history. It seems to me that I heard many of the phrases before, but they seem to have lost none of their charms and eloquence by reason of being presented again, but I see no reason why that speech should have been presented here. This is not a legislative body. The speech would have been well uttered ten years from now when it is just possible an effort may be made to issue five or ten million dollars or more perhaps, by the State of Illinois to pursue this great improvement. I sincerely hope, because I believe the gentleman will have an opportunity to make that speech if he wishes five or ten years from now, I sincerely hope he will have at that time the same keen ability and vigor of mind and health that he seems to have now.

But I do not think that we have anything to do with his program at this time. If we are going to become a court of review in a matter of the kind proposed, we should immediately proceed, to call before us all the engineers who had something to do with placing this great improvement upon the statute books of this State. We should call before us the various mayors of the cities and towns through which this waterway would pass, we should call before us the experts from Washington who had to do with this proposed improvement; we should have all the maps and the various statistics to go into this matter much as the legislature might go into it or much as the people of Illinois will have to go into it if it ever comes up again for another appropriation of money. If this Constitutional Convention is to take up this matter and attempt to decide such legislative features, I claim it is all absolutely wrong. We have heard the statement made and the attention of the delegates called to the fact that this is the great State of Illinois, and when they want to emphasize it, they term it the great commonwealth of Illinois, and I don't object to that, but I want those who use it to be consistent and consider that it is a great State, that it is a great commonwealth, composed of six or seven millions of people, and this great commonwealth has fully endorsed a big helpful enterprise for the people of the State. This waterway is a big thing. The waterway as planned is going to go through. I believe the people of the State of Illinois will see that it does go through. This great State of Illinois has agreed to spend twenty millions of dollars. There seems to be an element in this committee that wants to stop the work right here. That element would even stop the twenty million dollars already provided for, and if that is not done they will stop it when the twenty million dollars is expended. Now, the latter is the time to stop it. That is the time in which all these efforts should come. I hope that for the instructions of the people of the State of Illinois the speech just made by the Governor will be made from one end of the State to the other. It will be enlightening to say the least. If it can then be said that the twenty million dollars has not been wisely expended, that nothing would be done of advantage to the State by going further, then is the time to stop it, but that we should resolve ourselves into a body to review a great development of this kind, I think, Mr. Chairman, is incomprehensible. You desire now to foreclose on the matter by saying, so far and no further. You tie it up as with a band of steel so that under no circumstance except by changing the Constitution at that time can the State act further. Governor, I hope that

the time will soon come inside of ten years and I certainly hope you will live to see it that the State of Illinois will be proud of every effort which has been made to help the people in its transportation not only with waterways but in every other direction making for facility in the movement of people and goods to help in every manner and means it can find by rail and waterway. I sincerely hope, Mr. Chairman, that we shall meet this line of demarcation in thought on this important matter, and that as a body shall decide to go forward, not backward. Also, that the people of our State shall not be abridged now or in the future in continuing its efforts for the great waterway under discussion.

Mr. GREEN (Champaign). The motion pending is a motion to recommend that the Convention recommit. I doubt if under the rules that motion is debatable, but certainly the main question is not debatable under Rule 57, and in order that there may be no doubt about it I move that the debate be closed and we proceed to vote on the motion to recommend the recommitment of the proposition.

VOICES. Question, question.

(Motion prevailed.)

CHAIRMAN WILSON. The question is now on the motion to recommit. (The motion prevailed.)

Mr. GREEN (Champaign). I move that the Committee do now rise, report progress and ask leave to sit again.

(President Woodward Presiding.)

Mr. WILSON (Cook). Mr. President, the committee begs leave to report progress and asks leave to sit again.

Mr. HAMILL (Cook). I undersand the report of the Chairman of the committee now is that the Committee of the Whole recommends to the Convention that it recommit the proposal that has recently been under discussion by the Committee of the Whole.

THE PRESIDENT. Is that included in the report of the Committee, Mr. Chairman?

Mr. WILSON (Cook). I will include all that, Mr. President.

(Report adopted.)

Mr. GREEN (Champaign). I move that the Convention do now adjourn. (Motion prevailed.)

THE PRESIDENT. The Convention stands adjourned until tomorrow morning at ten o'clock.

Whereupon an adjournment was taken by the Convention to Wednesday, May 5, A. D. 1920, ten o'clock a. m.

WEDNESDAY, MAY 5, 1920.**10:00 o'Clock A. M.**

The Convention met pursuant to adjournment.

The President in the chair.

Prayer by the Chaplain.

THE PRESIDENT. The Journal of Friday, April 30, A. D. 1920, was placed on the desks of the delegates on yesterday and is subject to correction. There being no corrections proposed, the Journal of Friday, April 30, 1920, will stand approved, and it is so ordered.

Mr. LATCHFORD (Cook). Mr. O'Brien, during yesterday's session, received a telephone message to return to his home. I have been informed that his mother has passed away. I therefore respectfully ask that he be excused from the further meetings and sessions of this Convention for the remainder of this week.

THE PRESIDENT. There being no objections unanimous consent is given and Mr. O'Brien is excused.

Whereupon the Convention proceeded upon the order of special orders of the day, reports of standing committees.

THE PRESIDENT. The Committee on Rules and Procedure submit their report.

COMMITTEE REPORT.

Your Committee on Rules and Procedure respectfully recommends that the Convention shall at 12:30 o'clock p. m., today, recess until 4:00 o'clock p. m., and that on Thursday, May 6th, the Convention shall meet at the hour of 9:00 o'clock a. m., and again at the hour of 4:00 o'clock p. m.

(Report adopted.)

THE PRESIDENT. The committee submits a further report.

COMMITTEE REPORT.

Your Committee on Rules and Procedure respectfully reports as a Special Order for Thursday morning, May 6th, the consideration in Committee of the Whole of the reports of the Committee on Distinction Between Constitutional and Legislative Subjects, shown in the Journal of April 30th.

(Report adopted.)

Whereupon the Convention further proceeded upon the order of reports of select committees, introduction of proposals, first and second reading of proposals, motions and resolutions.

Mr. CARLSTROM (Mercer). I have a memorial from certain citizens of Mercer county respecting the reading of the Bible in public schools which I would like to have referred to the Committee on Bill of Rights.

THE PRESIDENT. There being no objection, the memorial will be referred to the Committee on Bill of Rights.

Mr. REVELL (Cook). I move that this Convention request its President to communicate to Delegate O'Brien our deep sense of sympathy in his bereavement.

(Motion prevailed.)

Whereupon the Convention further proceeded upon the order of unfinished business, general orders of the day.

THE PRESIDENT. There are matters pending on the calendar hearing in Committee of the Whole, particularly the report of the Committee on Education. The Convention will now resolve itself into the Committee of the Whole for the purpose of considering matters on the general order. The

Chair designates Delegate Brandon of Kane to act as chairman of the Committee of the Whole. (Applause.)

(Chairman Brandon presiding.)

CHAIRMAN BRANDON. The committee will be in order. Discussing with the members of the Committee on Education the best manner of presenting this report the chief fault in the minds of the members of the committee is that the time of this committee be conserved. There are some members of the committee who are particularly informed on some particular sections and I understand the procedure is that the report of the committee will be considered section by section. Under that theory I would request, Mr. President, that Mr. Corcoran take the chair during the consideration of section one, and I would ask leave of the committee to be heard in support of that section.

THE PRESIDENT. Mr. Corcoran, will you take the chair.

(Chairman Corcoran presiding.)

CHAIRMAN CORCORAN. Mr. Secretary, will you please read the report, also read section one.

(The report, and section one read by the Secretary.)

Mr. DAVIS (Cook). As the chairman of the Committee of Education, Mr. Brandon suggested that the committee was in favor of the general plan of procedure which would save time in the work of hearing the report of the committee; he also said he would take it for granted that the procedure would be along the line of considering section by section, and take action on each section as it is being read. In carrying out the suggestion of the chairman of the Committee on Education I wonder if we cannot ascertain the sentiment of the Committee of the Whole at this time by considering a motion which I am about to make, the effect of which shall be the substitution of the present article on education in the Constitution of 1870 to take the place of the majority and the minority report. If we can get a vote on that question and if it should so occur that the majority of the members of this committee are in favor of retaining the article on education as it appears in the Constitution of 1870, we will save considerable time and considerable discussion. On the other hand, if by a vote on my motion the Convention is disposed to consider further the majority and minority report we may proceed along those lines, and for that reason I move at this time that the present article on education in the Constitution of 1870 be substituted for the majority and the minority report.

Mr. BRANDON (Kane). Personally I see no reason why a motion of that kind would not be entirely in order for the committee to consider, but I don't see how it will save time, for the reason that those members of the committee who are favorable to some change in the section will certainly want to be heard in debate upon that motion the same as they would be upon the consideration of the article, section by section, and I feel if the gentleman from Cook will think over it a moment, he will agree that we have a mixed debate, from the fact that those who wish to make changes in section four, for example, or who are for or against a new sentence in section one will all be debating at the same time and it will be more difficult for the committee to follow the trend of thought and argument than it would be to settle one question at a time. If the gentleman from Cook insists upon his motion, we will proceed, so far as I am concerned, and debate on that basis, but I am sure we will be more confused than to settle one issue at a time as we go through the sections.

Mr. DAVIS (Cook). That is perfectly agreeable to me. I do not propose to make any argument or debate it. Every member on this floor has read the present article on education and the reports of the two committees, and I submit again that after the proponents of the changes are through with their arguments, I shall not argue the merits of my motion, but shall do everything in my power to facilitate the situation and bring about an early vote on my motion.

Mr. DUNLAP (Champaign). I am rather surprised that my friend from Cook would think he is saving any time by such a motion. The parliament-

tary procedure under such a motion would be that all the amendments and the suggestions made by the committee must be offered as an amendment to the gentleman's motion, for certainly those who are interested in any changes would not permit this question to go to the House without submitting their amendments. Therefore, it involves a discussion of the whole proposition and it seems to me we should proceed in the regular way. We have the report of the committee here and so far as I know we can act upon that just as expeditiously if not more so and more understandingly than to take up the provisions of the old Constitution and undertake to amend them as the committee did in its meetings. We will be going over the same ground that the committee has gone over in undertaking to amend the old section of the Constitution here in the Committee of the Whole, which is a much more difficult matter. I submit to the delegate from Cook that in courtesy to the committee we ought to allow this to proceed along the lines that the chairman of the committee has recommended. I earnestly hope that the delegate will withdraw his motion so that we can proceed upon the discussion of this question in the logical way of a committee report.

Mr. JACK (Jasper). Rule 45 directs how we shall consider these proposals, and to consider the suggestion of the gentleman from Cook we would have to first set aside that rule. I think the motion is out of order.

Mr. BRANDON (Kane). Colonel Davis' motion proposes to dispose of all the sections of the report in one motion, which is contrary to the ordinary rules. In my judgment the Chair should hold the motion of the gentleman from Cook out of order and let us proceed under the rule mentioned by the delegate from Jasper.

Mr. DAVIS (Cook). In the interest of saving time I will withdraw my motion and stop debate on that.

CHAIRMAN CORCORAN. We will proceed to discuss section one, which has been read.

Mr. BRANDON (Kane). It is not my purpose to go into the question of the merits of the public school system of the State or a criticism of what might or might not be done under the first sentence of this proposed section, which is exactly the same language as the old section one of the present Constitution of 1870. It would be very easy and probably useless for us to repeat here the great mass of evidence brought before the committee in criticism of section one. When we entered on our work I think the feeling of most of the members of the committee was that that language was inadequate and was not a true description of the school system of Illinois as it exists. Some members took the position if that language was a description of the public school system of Illinois in 1870, it certainly was not a description of the school system of Illinois as it exists in 1920, but after we had listened to the school teachers of the State and conferred with the representatives of the Attorney General in the matter, we finally reached this conclusion that that wording in section one, no matter how inadequate or no matter how poor a description of a modern school system it may be, it has become the basis for so many decisions of the court and is so generally accepted as being descriptive of whatever school system public sentiment may wish to operate in Illinois at any time that the committee recommended that that language be retained. And for the benefit of the record I want to say that if the committee felt there were limitations in that language, that if there was anything in that language which would prevent the most excellent suggestions which have come before the committee in the way of proposals from being carried out, that the report would be different than what it is. The proposals for the use of the English language only as a medium of instruction are not embodied in the report of the committee, but only for the reason that the General Assembly may, and has already, provided such statutes under this constitutional section. The question of a more definite preparation for patriotic citizenship was treated just the same way. The committee felt there was nothing there that would prevent the school system from going as far as it might wish to go in developing further study along the line of civics and the better development of the child for citizenship. Suggestions came in for broadening of the scheme of education for more work along the line of a self-support-

ing product. We found there is nothing in that that could possibly limit the legislature from as much trade-school, vocational practice, industrial school practice as it might want to inject and that public sentiment might be willing to use and pay for from time to time. On the other hand, there were some very serious objections to changing a single word of that section. There are pointed to us, as you will see in the annotated edition of the Constitution before you, many decisions applying to the word "children" and around the words "common school education." Your committee feels that it cannot too strongly emphasize the necessity of leaving that wording exactly as it is, with the full belief on the part of the committee unanimously and I believe the belief of this Convention that that is absolutely an unlimited mandate upon the legislature to do whatever the people of Illinois might want to do from time to time and may be willing to pay for to develop the children of this State into good patriotic self-supporting citizens. But through all that it should be borne in mind there is no thought of anything other than the open school house door. That first sentence covers the education of the children of the State and in our weeks and months of study on this question we have yet to find any one who is willing to say that that section is broad enough to permit money of the State to be expended for anything other than the education of the children of the State, and to maintain the open school house door in the school rooms of which the State is the school master. We all know very well, Mr. Chairman and gentlemen, that there are a great many children in the State of Illinois who cannot go through the school door and mingle with the other children in the school room and receive that education which is offered free of charge by the State. The blind child cannot do so, and the State has already known that fact and has already provided by legislation for the education in a special way of blind children. The delinquent child, one convicted of crime, cannot receive the same educational process as the normal child for which the school system was devised, and again the State has provided at St. Charles and at Pontiac for special care and education and treatment of those determined by the courts as delinquent. Defectives—meaning by defectives both physical and mental defectives—the State has taken care of physical defectives in some instances, the blind, the deaf and the dumb, mental defectives to some degree, possibly in that instance not so far as public opinion might desire, but the State has not yet taken the position in the care of the dependent child that your committee feels it should have taken. Your committee works upon the assumption that it is good business for the State to provide such a home and education as may be effective with all children, and primarily this first section sets out a plan of education which will reach ninety-five to ninety-seven per cent of all the children of the State, but in 1870 when this Constitution was adopted the problem of delinquent, dependent, and defective children had not reached the point of public knowledge that it has today. We had not gone into the classification of the various kinds of defectives, and that is the thing I want to come to. There are many kinds of defective children; some are so defective that they are labeled idiots and are locked up; some are so mentally defective they are called morons, and they are locked up; but there are hundreds and thousands of children in the State of Illinois who do not fit the common school system as laid down in sentence one of this section, and yet who should not be hauled up into court before the judge and formally labeled as defective in order to get the benefit of such special education as the State might provide for idiots and morons. As time goes on, public sentiment in the State will more and more of necessity be that the child should receive the proper sort of training that will fit that child best for a self-supporting place in the social life of the world and that special treatment is necessary for children just as special treatment is necessary in the development of live stock or of trees and shrubs or any other of the things that the State produces.

Your committee feels that considering the great advance in public opinion since 1870 that the inclusion of sentence two, "that the General Assembly shall also provide for the care and education of dependent de-

linquent, defective and other children requiring special consideration," that that has become basic in this State; that if the Convention of 1870 had realized the enormous percentage of children who could not be treated under sentence one of that section as written, that that Convention would have added a provision mandating the legislature to do what was necessary to do in the care of other classes of children. The expression reads "other children requiring special consideration;" the committee put those words in advisedly. We do not pretend to say here how the legislature from time to time should develop defective children, but we feel this that these children who cannot go along with the ordinary public school course because their minds are to a certain degree subnormal should not have to be drawn up in court and declared mentally defective by the court in order to receive special care and educational consideration. In other words, there are in some schools in this country what are known as "opportunity classes" in which all the boys and girls who are two years behind the ordinary progress of the educational process at a given age, are given special treatment; sometimes that special treatment goes further than the mere school house with the teacher and the text book, sometimes that treatment has followed the child home, has to do certain things with him outside of school. Sometimes it is necessary to spend some money which could not be described as being a good common school education, and for that reason your committee feels that the addition of this sentence will lay a platform or basic principle under which the friends of education in the State may go to the legislature from time to time and from session to session and provide all the means that public sentiment at that time may desire for the development of all the children of the State. Your committee works upon the philosophy either rightly or wrongly that this State cannot afford to have the child grow up in its midst in ignorance. If it finds the condition where a great group of children are failing to be developed so that they cannot take their proper places in the social affairs of life at the age of eighteen, nineteen or twenty-one years, as the case may be, that the State should bend its energies to the point of seeing that the child is properly developed.

I want to say a word here on another subject: there has been a lot of talk about the pay of teachers in the State, and I think this committee understands that it is not within the scope of your Committee on Education to offer any proposals for additional pay for the teachers of the State, but I simply wish to make this observation to this committee which is a group of representative citizens of the State, that we are losing our teaching force in Illinois with amazing rapidity, and worse than that, we are not building up a relief group of new teachers to take the place of those who go out. I owe it, I am sure in common justice to the teachers of the State to say that the present economic situation in which the dollar is worth such a pitiful portion of its former value has reached the teachers of the State to a more harmful degree than any other group of employees in the State, and the State owes it to the loyalty of the men and women of the teaching forces of the State of Illinois to recognize the fact that they have stuck to their desks and to our children and continued to lead and develop them, when almost without exception they were offered more financial remuneration by stepping out the school house door and taking advantage of other opportunities. Now, let it be understood that the desire of your committee is to make this section even broader than it is today. Your committee has searched this second sentence to try to find any thing in it which would be a limit on the legislature at any time. We feel that the State should be educated to spend more money for education than it has spent in the past; that the addition of this sentence will facilitate the friends of education in going to the legislature and pleading for a broadening of the educational process. In order to save the time of the Committee of the Whole, the Committee on Education has filed without reading the rather lengthy statement or criticism of the school system and the suggestions for improvements that it has to make because those points do not reach this fundamental question. The question before the committee is, "shall we add to section one of article eight the sentence upon which the legislature may continue to build its

services for delinquent and defective children, and upon which it may build and take care of dependent children; not that the State should go into that broken home and take away from the woman the children that are left there, by no means; the Widow's Pension Act as it exists today, would dove-tail into this section. It is not that the adoption of this sentence would necessarily cost the State any money. We feel that it would tend to induce the General Assembly to create some agency other than the church to care for the dependents of the State. I could take your time and tell you things about the care of dependent children that would be shocking. I will say this much. Back in fifty odd Harriet Beecher Stowe wrote a book; that book was written for the purpose of firing the hearts of the men of the north to the point where they could go down south and fight their blood kin, almost, to free the slaves. The book had the desired effect, but think back over it, now gentlemen, think a moment and then answer me this, what was it in Mrs. Stowe's book that fired the Northerner's heart to go down south and fight? It was not that the planter overworked the slave; it was not that the planter unduly punished or beat the slave; the thing that fired the heart of the Northerner to the point that he risked his life for the freedom of the slave was what he considered the damnable custom of tearing the babe from the mother's breast, separating husband and wife, brother and sister, and selling them out promiscuously like cattle and hogs from one plantation to the next and absolutely severing all the blood ties that existed between men, women and children of that black race. Yet I tell you, gentlemen we are doing that same thing every day in the State of Illinois. There is some excuse for the indignation I feel just in reciting those facts to you. We are not doing it either with the unschooled negro one or two generations from the swamps of Africa, we are doing it with our own Caucasian blood and kin; boys and girls whose only crime in the world is that their fathers and mothers died and left them without sufficient means to get inside the school house door and to take advantage of the education that this State offers to them. This is not the place, of course, to do away with the principle of separation between boys and girls. Do you know, gentlemen, three weeks ago up here in Peoria county one of the officials of the State of Illinois had to break a solemn statute of this State to prevent the marriage of a brother and sister in that county? We, in Illinois, not only separate the brother and sister and scatter them without names, by number only amongst good people who will take them in, but make it a penal offense for any officer in the State to disclose the identity of any such bound-out child, and when it appeared the other day that a license was about to be issued for a young man and woman to be married whom the officer of the Department of Public Welfare knew were brother and sister he had to break the statute of the State in order to stop that ceremony. We can all imagine the mental turmoil that resulted from the disclosure he was forced to make. This is not the place to remedy those things but to lay a basic foundation which would have been laid in the Constitution of 1870 had public opinion been educated to the point at that time to make it understood, and that is—that the State will give such care and consideration only under circumstances as is necessary to develop every child into the best possible self-supporting patriotic citizenship; we do not say that it shall do it at its expense, but say that it shall be done. The State provides a penalty for the father or mother who runs away and leaves children dependent. It should have power to enforce fatherhood and motherhood. I feel under this section we are not pretending to say what the legislature should do but simply trying to give the legislature all the power that it is possible to give so it may be clearly understood in the State of Illinois that the State says to it that at some one's expense, boys and girls of the State, no matter in what economic or physical condition they may find themselves, shall develop into the best possible self-supporting, patriotic, good manhood and good womanhood. Mr. Chairman, I move that section one of Proposal 359 be made a part of the Constitution of 1920.

Mr. HAMILLE (Cook). May I ask this question of the chairman of the Committee on Education, is there anything in the Constitution as it now

stands which prevents the State from providing care and education of dependent, defective, delinquent and other children requiring special consideration?

Mr. BRANDON (Kane). A very serious question, Mr. Hamill. If it would be held that the money paid in for educational purposes could be spent in the care of children—

Mr. HAMILL (Cook). That is not my question. Is there anything to prevent the State from taking care of these children under the Constitution as it stands now?

Mr. BRANDON (Kane). I do not believe so, I do not think there is if the money comes from some other source than the educational fund.

Mr. HAMILL (Cook). That answers my question. I move, you, Mr. Chairman, there be stricken out of section one the last sentence reading, "the General Assembly shall also provide for the care and education of dependent, defective, delinquent and other children requiring special consideration," and I desire to be heard very briefly on that motion. Gentlemen of the committee, you do not need to be reminded once more by me that a State Constitution is not a grant of power, to the General Assembly. It is a limitation of power, the General Assembly having all power not denied it. This sentence, according to the answer of the gentleman who proposed it, creates no limitation and at least confers no power. It is therefore unnecessary. It is, Mr. Chairman and gentlemen of the committee, objectionable from another point of view as I look upon it. It contains a mandate to the General Assembly that it shall do something. To my mind it is objectionable that this Convention should issue its mandate to the General Assembly. We know it has no power to enforce its mandate. After this Convention shall have adjourned, will cease to exist, we will have no way of compelling the General Assembly to obey its behest, and it seems to me we stultify ourselves if we issue orders we cannot enforce. The purpose of the Constitution is to put such limitations as we think ought to be put upon the power of the General Assembly. This section provides no limitation, and it is therefore out of place.

Mr. BARR (Will). I would like to ask the delegate from Cook a question if he will reply.

Mr. HAMILL (Cook). Certainly.

Mr. BARR (Will). Do you think that there is any limitation provided in the first part of section one which you have not asked to have stricken out, or can the legislature do everything without any part of section one being in the Constitution?

Mr. HAMILL (Cook). I think so. So far as I am concerned I would be quite content to have the whole section stricken out. I did not include the first part in my motion because it has stood there for some fifty years and yield my own conviction that the Constitution should not contain any unnecessary matter in view of the fact it has stood there so many years, and perhaps as few changes ought to be made as are absolutely necessary.

Mr. BARR (Will). Does it not also direct the legislature to do something, rather than to limit the legislature from doing something?

Mr. HAMILL (Cook). It contains the same vice that the latter part has, and that is another reason it should go out. I yield that for the same reason.

Mr. DUNLAP (Champaign). If this Convention could proceed along the line suggested by the delegate from Cook (Hamill) on all matters that come before it, could consistently do that, there would be an excuse for the motion as made, but inasmuch as we know that that is an impossibility I can see no harm why this amendment here as proposed by the committee should not go in along with the balance of section one. To be sure, the first part of that section has stood for fifty years and the legislature has been untrammelled so far as that was concerned, its ability to do by anything that is in this section one toward the taking care of these dependent and delinquent children, but if we are to have an educational section in this Constitution, then let us not be derelict and not state one of the essential fundamental things that ought to go into an educational section, and that is the

care of these dependent children. Let the legislature understand that it is their duty to care for these dependent children. Now, we have been evading that in many ways, in every way almost, we have been evading the responsibility of the State to take care of these children. Now, let this Convention speak in no uncertain terms that they think in their opinion it is the duty of the legislature to provide for the care of these dependent children. There is not anything I believe that needs the attention of the General Assembly more than does this provision. Up here at Lincoln, Illinois, we have an institution for the care of mentally deficient children. If any one of your members of this Convention would go to that institution and visit it you would see that inadequate provision was made for the care of that class of children and delinquents. There is not anything that will appeal to your hearts so much as to go to that institution and see how little is being done. I cannot say why that has been neglected, but it is neglected. I have gone there in my capacity as a member of the State Senate and I did what I could to increase the facilities of that institution, but because of the lack of interest of the people of the State they are not adequately cared for, and it is a shame they are not. Now, those are children who cannot take care of themselves, mentally incapacitated, but we have a citizenship coming up here of these dependent children, and if the State of Illinois has any duty to perform that is greater than any other, it is the care of these children. and I would like to see this Constitutional Convention emphasize that point and I would like to see put into this clause that in itself has been acknowledged it unnecessary, but if we are going to put in the unnecessary part, let us accompany that with a full statement of what we consider the duty of the General Assembly to be. They can call that if they like, legislative matter or unnecessary, but I think that this Convention owes it to itself to express to the dependent children of this State their interest and their care and welfare for the next fifty years. I am in favor of the report as made by the committee.

Mr. SHANAHAN (Cook). I would like to ask the gentleman a question for information; you say "the General Assembly shall also provide for the care"—leave out education—"of dependent, defective, delinquent and other children requiring special consideration." This is an educational section is it not?

Mr. DUNLAP (Champaign). Yes.

Mr. SHANAHAN (Cook). Do I understand by that the State would be required, it is directing the General Assembly that it shall provide homes for the care of these dependent children? I am not talking about defective or delinquent children. I am not talking about the deaf and dumb and blind, and so forth, but dependent children. Do I understand that under this provision that the General Assembly would be required to build homes to care for dependent children and that would be taken out of the educational fund? I am simply asking for information.

Mr. DUNLAP (Champaign). My understanding of that is this: that there are certain children, minor children of tender age, who, not being educated, must be cared for as well as educated, and it is the duty of the State to provide some means, either in homes or some way through statutory enactment that they shall be placed in homes and cared for in that way, or that they shall have some authority and responsibility over the care as well as the education of these children. I can see no harm in including in this educational section that those children of that age, should be taken care of as well as educated because the two are inseparable on account of the condition of these children, and if it is necessary to provide institutions they should be provided.

Mr. SHANAHAN (Cook). That should come out of the educational fund?

Mr. DUNLAP (Champaign). It might imply that. They shall care for them in some way, but what fund it may come out of, that is for the legislature to determine. The word "care" is placed in there in my opinion because of the fact it is almost impossible to say that you will educate a child unless you care for it in some way, and the two go together in the

young child, they must be taken care of. It should be put in there that the State should furnish the care that is necessary as well as the education, and that is the reason that the care and education both are mandatory upon the legislature, to enact some statute to care for them.

Mr. TAFF (Fulton). May I ask the Senator a question: the words "and other children requiring special consideration," does that mean the physically defective children? Is the interpretation of the Committee on Education that the last words in that clause "and other children requiring special consideration" means physically defective children?

Mr. DUNLAP (Champaign). I think it does.

Mr. TAFF (Fulton). That being true, would the care of physically defective children be charged and taken out of the educational fund?

Mr. DUNLAP (Champaign). The idea of the committee as I understand it was to provide if there were other items requiring any special consideration they should be furnished along with the education of the other classes.

Mr. TAFF (Fulton). I have in mind a child that has completed the high school education but has some physical defect. Would it be taken care of under this section?

Mr. DUNLAP (Champaign). That is, to require an education to make them self-supporting, providing some special schools for their instruction? If that were necessary, a general provision for taking care of special education might be needed and this is not covered by the other specifications on this subject.

Mr. TAFF (Fulton). Do you attempt by that particular part of the section to take out the limitation which is in the first part of the section which would not permit technical education of children in the State of Illinois at public expense, such as professional education?

Mr. DUNLAP (Champaign). I do not catch your idea quite.

Mr. TAFF (Fulton). Is the last part of that question broad enough in the opinion of the committee to permit such education of the children of the State of Illinois?

Mr. DUNLAP (Champaign). Professional education?

Mr. TAFF (Fulton). Such profession as lawyer, doctor, pharmacist, and so forth?

Mr. DUNLAP (Champaign). No, they do not require special consideration, we have too many of them now, lawyers and doctors.

Mr. TAFF (Fulton). I understood you to say there was no limitation upon this section, of the latter part of the section as to what the legislature should do.

Mr. DUNLAP (Champaign). I said there was no limitation upon what the Assembly might do, but while we are specifying for a common school education, it is the duty to take care of dependent and delinquent children as well.

Mr. TAFF (Fulton). Then the first part is a limitation on the amount of education?

Mr. DUNLAP (Champaign). That is a good deal like the legislature interprets it, I think.

Mr. MILLER (Cook). May I ask the Senator a question: what is the meaning which the committee attributes to the words "dependent children?"

Mr. DUNLAP (Champaign). I do not want to take upon myself the answering of all these questions. I respectfully refer that to the chairman of the committee, Mr. Brandon.

Mr. BRANDON (Kane). The words "dependent children" means children declared dependent. There is a process for declaration of dependency. It is whatever the legislature might decide was a dependent child. As I said, Mr. Miller, we have been in hopes that in this we might persuade the legislature to declare a condition of dependency through the school system instead of taking the child through the courts. In other words, that a statute might be provided by which a school board might be permitted to declare that certain children should be set off and given special consider-

ation without subjecting them to the formal declaration of dependency. Under the present statute that is for the court to say.

Mr. MILLER (Cook). It is intended by this that the legislature may constitute the school authorities as a body to declare who is dependent?

Mr. BRANDON (Kane). That is what we would like to have done.

Mr. MILLER (Cook). Is it your idea and the idea of the committee that this would bind the legislature to prevent the taking of foundlings into the homes of various people who want children and would put the burden upon the State and the duty upon the State of seeing that those children were segregated and maintained by the State?

Mr. BRANDON (Kane). No, your committee is in favor of the treatment of dependent children in homes if it can be possibly done. We do not want any limitation on this section. We are trying to build a basis upon which the legislature will see that the thing is done. It is now a hit or miss proposition, more or less.

Mr. RINAKER (Macoupin). There are two criticisms that occur to me on this section, and yet possibly they can be obviated. I may be wrong about it. I do not see why there should not be a mandate in the Constitution on this subject as well as on many other subjects contained in the Constitution and yet the one objection that is made to this provision might be obviated if we inserted after the word "also" the words "require or," so it would read, "shall also require or provide for the care and education of dependent children," and so forth. That would not be an assumption by the State of the burden for caring for all of these children. Then there is to me an objection in the last clause, "other children requiring special consideration," and when they are connected in the way that they are in this clause it would apparently require a court proceeding to determine their status. I suggest this, not for the purpose of offering an amendment but to see whether or not there should not be either an elimination of the last clause of the sentence or some specification of the manner in which that shall be determined short of a court proceedings.

Mr. BRANDON (Kane). May I ask the gentleman from Macoupin if the wording is left as it is, wouldn't it be possible for the legislature to pass laws determining how that special consideration might be found? In other words, it would be possible for the legislature to determine either that a school board might classify children for educational treatment, or the court might be required to declare the defective class. We want it both ways. We want it possible for public sentiment to develop so if the legislature thinks it is a good thing to do that the school board might classify the children and give each one what he needs. That is all.

Mr. RINAKER (Macoupin). I do not see why that could not be provided by legislation, but the question and the consideration of it leads me to fear that the inclusion of the entire sentence would be in danger of doing more harm than good.

Mr. BRANDON (Kane). Why?

Mr. RINAKER (Macoupin). Because it is a mandate to the legislature to do a certain thing, and it would be imperative on the legislature now to provide some method of doing this, and yet we have connected this class up with other classes of children. Their liberty would be taken away from them, and it should be done by court proceedings, and we by a constitutional mandate impliedly directing the same kind of procedure as to these children whose liberty is not to be taken away, but who are classified with those whose liberty is effected by the first part of the characterization of the children to be treated.

Mr. BRANDON (Kane). I understood you to say that under this wording you thought it would be possible for the legislature to provide for special consideration for all children without a declaration or classification by the court?

Mr. RINAKER (Macoupin). I dislike to answer that question yes or no; I am not prepared to do so at this time, but I fear the effect of a mandate which shall include these children with the other classes whose liberty is effected.

Mr. ELTING (McDonough). I am in favor of the section as reported by the committee and opposed to the motion to strike out this last clause. I think it is a very important matter that the State take this matter in hand, that is, make it mandatory upon the General Assembly to provide not only for the care but the education of dependent children. It is true we have laws attempting to do this. We can send them to the county farm or we can have them convicted of some crime or misdemeanor and sent to these other places. That takes care of them. But this provides the care and education for these unfortunate people. That is the important thing, that they are provided with an education to fit them for the duties of this life and put them in a position where they will be able to support themselves in a short time, if possible. That is the object, as I understand, of this section. It is true, as the delegate from Cook states, that this may be statutory. It may infringe upon the duties of the legislature, but inasmuch as those matters have been attended to by the legislature in this way I think this should carry the section as presented because it makes it mandatory upon the General Assembly to provide for the care and education of these unfortunate children. This is along the line of another subject that is now germane to this, but just to illustrate: we have a law by which elderly people who are really sick physically and not mentally are obliged to be adjudged insane before they can receive the helping hand of the State. That is the law. I have defended lots of cases in the county court and I have had doctors tell me that forty per cent of the people that are adjudged insane in order to get the benefit of the provisions of the State are not insane, but simply sick physically. Now, I am willing to sacrifice the nicety of whether this is a constitutional or legislative matter, and not only ask the General Assembly but direct them to make proper provisions in this regard.

Mr. FIFER (McLean). I am a friend of the measure taken as a whole, but I would like to ask the chairman of the committee what the committee had in mind when they added these words, "and other children requiring special consideration?"

Mr. BRANDON (Kane). We feel, Governor, that there are some children in the State who cannot take advantage of the public school system described in sentence one, and who furthermore should not be described as dependent, defective or delinquent. Particularly, we had in mind the sub-normal children of the State who at this time are not classified at all but put in with the regular students of the ordinary school and are simply drifting behind year by year, do not get promoted as the saying goes, and stick with it until they get tired and get out. We are rather of the opinion that within the next twenty-five or fifty years public opinion will insist upon a separate treatment for the child who is not able to keep up with the ordinary school processes, but we did not want to make it necessary for that child simply because he was a dullard to have to be hauled up in court and declared a defective child, and we feel under this wording in this section the legislature would be able to provide for the classification of school children in the public schools, so special treatment could be given to those needing it and the ordinary bright normal children go along with the regular courses.

Mr. FIFER (McLean). How are the committee to determine who were dependent children? Dependent means a great deal. Of course a child ordinarily is dependent on its parents for support. Dependent is a legal term and has become well understood in this State. When it is used legally it means those dependent upon the State. Now, in my judgment you weaken your provision of the Constitution by adding those additional words. It seems to me the words "dependent children" would cover all you intend to cover by the added words, and you introduce a new term into the Constitution, a term that is unknown to the legislation of this State, and I think the words preceding will cover all that you desire, and as a friend of the measure I would prefer to see those words eliminated, because the legislature might interpret, there might be different views on the subject. When

it comes to "dependent children" that is a term that is well understood and about which there can be no mistake.

Mr. REVELL (Cook). I move to amend the second sentence of the first section so that it will read as follows: "The General Assembly shall also provide for the education of dependent, defective and delinquent children by special consideration when necessary."

Mr. BRANDON (Kane). I cannot see what the gentleman from Cook gains by this except to weaken it by cutting out the word "care." There is no question in the world but what defective and delinquent children may be educated under sentence one. The whole purpose of this additional sentence is to get in the word "care." There is no question but what a common school education is broad enough to cover all education the General Assembly might see fit to provide. The question is—may it take public funds and use them for the care of children?

Mr. REVELL (Cook). Mr. Chairman, I eliminated the word "care" because I doubt if we are prepared here to know just what that word means and where it will lead. We are getting into a serious situation when we undertake to say that we shall care for all dependent children who are delinquent and take it out of the funds appropriated for the purposes of education. Perhaps the chairman of the committee may be able to tell us how many such children there are in the State of Illinois. He said there were some thousands. Well, it would make a difference whether there were some thousands or whether there may be fifty thousand or more. Perhaps his argument might be that it made no difference, the more there were the more the need for taking care of them. Now, I believe that the amendment to which this would be an amendment offered by the gentleman from Cook should receive favorable consideration.

CHAIRMAN CORCORAN. There is no amendment pending. It is a motion to strike out a certain sentence, and I believe your amendment is out of order at this time.

Mr. REVELL (Cook). I offered mine as an amendment to the amendment.

Mr. BRANDON (Kane). The committee accepts with thanks the suggestion of the gentleman from Macoupin (Rinaker), and I think it will reach your point too, so that the committee asks that the sentence on the record read "the General Assembly shall also require or provide for the care and education of dependent, defective, delinquent and other children requiring special consideration."

Mr. HAMILL (Cook). There are now pending two amendments. The gentleman is out of order.

Mr. BRANDON (Kane). I ask that it be embodied which I felt would do away with the gentleman from Macoupin's motion.

Mr. HAMILL (Cook). That would require a motion and the consent of the house.

Mr. RINAKER (Macoupin). I made a simple suggestion, not an amendment.

CHAIRMAN CORCORAN. The motion to strike out the last sentence of section one was made, and Mr. Revell makes a motion to amend it. The gentleman from Macoupin offered no amendment, as I understand it, simply a suggestion, and the gentleman from Cook made a motion to strike out the last sentence of section one, and your motion is out of order, Mr. Revell.

Mr. LINDLY (Bond). There is no question but what the chairman of the committee by unanimous consent could amend the line that the motion strikes out if he asks unanimous consent of the house and it is given.

Mr. SHANAHAN (Cook). I desire to call the chairman of the Educational Committee's attention to the word "care." I do this not that I have any great objection to the section, but I have had some experience dealing with these institutions and making appropriations, especially in making appropriations to the school fund or educational fund. If this becomes part of the new Constitution and it is made mandatory that the General Assembly shall provide for the care of delinquent children it means the State of Illinois will have to invest at once millions of dollars in the building of new

institutions and the care of dependent children. It does not provide who shall declare they are dependent, and I think under this clause that the State of Illinois could appropriate money for homes for the care of these delinquent children, providing the homes were not sectarian or church institutions, and that might bring on in this State considerable lobbying to get large appropriations for institutions for the care of dependent children, and I think this Convention ought to go very slow and if it is going to adopt this section, it ought to provide very carefully how this money shall be expended and how these appropriations shall be made and to whom they shall be made.

Mr. WALL (Pulaski). I arise in support of the motion to strike. In the first place I do not see necessity of the section at all. The latter part must necessarily be purely legislative. It is true that the legislature does not always obey mandates, but they feel under greater obligations to obey mandates than they do merely directory constitutional legislation. The statute of the State already provides, and it is not meagre or stingy in its provisions, with reference to taking care of dependent, delinquent, defective and neglected children. It provides they may be sent to homes, industrial homes where guardians are appointed, guardians in those institutions where they are watched for and cared for and inspected by the Department of the Public Welfare, and it also provides and defines to the Supreme Court what a neglected, dependent or delinquent child is. Now, if you take the last section which it is proposed to strike out by this motion and put it into this new Constitution, the wording "neglected and dependent children," that has already been defined by the Supreme Court, will stand as defined, and it will require, in answer to the gentleman from Macoupin, the judgment of some court in order to classify them in either one of the three classifications in the section sought to be stricken out. There is another reason why I think this section is inopportune. Great as is my respect and profound as is the learning and experience in the children welfare movement of the chairman of the Educational Committee, and much as I feel I am as good a friend as anyone of this class of children sought to be protected, I believe that the phrase "and other children requiring special consideration," or words to that effect, I think that language is going too far afield, and I believe we are treading upon dangerous ground when we put that into the Constitution, and especially in view of the fact that the chairman has just explained what the committee contemplated when they put that in this section. Now, if that means and is intended to include that class of children who go to school and get behind in their studies, if it means that the boy that needs a bath, the boy that wants to stay at home every rainy day from school, or does not concentrate upon his school duties because he is thinking about an engine he is building at home, something of that kind, it covers a vast, indefinite and innumerable number of children that will always, as long as time lasts, be considered those that require special care and consideration of the State. There will never be a time in the educational or industrial system or any other system of human life when there will not be dullards, children and grown people for that matter, who are behind, lagging behind the others, and who will not be able to keep up. I do not think the truth of that can be gain-said or denied, and that will be true of the schools, high schools and colleges of our country, just so long as we have an educational system. Therefore, I think that is going too far afield, and I believe that section one of the old Constitution is sufficient here if any section on this subject is necessary at all.

Mr. HAMILL (Cook). Just one word more. I want to remind the members of the committee that that which purports to be a grant of power in a State Constitution is not infrequently interpreted by the courts as a limitation of power. The court approaches the question in this way, and says that the Convention that framed the Constitution knew that the Constitution was a limitation of power and could not be a grant. Therefore, when they framed that which on its face appears a grant, they must have intended to exclude something, so if you put in this last sentence in section one, you are not conferring a power upon the General Assembly, you are denying it some power.

Mr. BRANDON (Kane). I understand you are ready to vote. I want this word in conclusion. As I size up the situation now, we are confronted with the same condition which nine members of the Convention have striven for about fifteen weeks to meet—to get some language which in the opinion of those nine men will help to develop the public school system of the State so it will reach all the children in the State. The objections raised here are in the first place academic. One gentleman says he is against it because it is not needed. Another says it does not amount to anything, and yet goes ahead and says that it is a very serious menace to the people in the State.

I want to say this in conclusion, that one of the easiest and most polite ways to object to anything that we are against because of its effect is to raise the statutory status. We raised it for weeks; we worked on this sentence for a great many hours. Your committee is unanimous in its belief that it is desirable to have this in in order to broaden the scope of the legislature for the care, if necessary, of those children who cannot take advantage of the public school system as set out in section one without special consideration. If this committee will vote down this motion to strike out the second sentence I will immediately move to include the words "provide or" which will remove in my judgment the only valid objection made to the sentence, and that is the one raised by the gentleman from Cook, Mr. Shanahan, that it will mean a financial burden on the State. I ask you to vote down this motion to strike out.

Mr. BARR (Will.) I have listened with a great deal of interest to the discussion. I will not take up much of your time on this subject, the criticisms directed against this last clause or section. The chairman of the Educational Committee is quite correct that the Committee on Education has spent a number of weeks endeavoring to draft an article that would be acceptable and cover the ground that a great number of people of this State consider necessary to be inserted in the Constitution. I quite agree with the delegate from Cook county, that it is not necessary to write this in the Constitution in order to give the legislature this power, and as suggested in my question, I go further and agree that the whole of section one can as well be stricken out insofar as the power of the legislature is concerned. It has all the power that any part of section one grants it already, and of course the purpose of section one when it was written into the Constitution of 1870 was an indication by the legislature of the State of Illinois that the people of the State of Illinois were interested in giving to the children of this State a common school education, and the men who wrote that Constitution had no idea that it was necessary to write those words into the Constitution in order to give the legislature the power that that provision directed they should exercise; and I say at this time, in 1920, the Committee on Education is not so ignorant of the principle of Constitution writing that we do not understand that the legislature of this State had the power to do the things that are directed or suggested in this last clause to do, without its being written into the Constitution, and I just want to say to you gentlemen that there is something more that must be recognized at this day even in Constitution writing, and I believe I am just as anxious to keep within the recognized bounds that are proper in the Constitution as any delegate to this Convention, but the human side is something that we must at least slightly recognize. The intention of the committee, as has been suggested, for adding this additional section is to indicate today, fifty years after 1870, the delegates to this Constitutional Convention believe that the legislature should go a little bit further than to provide a common school education for the ordinary boy and girl, and so with the same idea that was in the minds of the men who wrote the Constitution of 1870 in suggesting to the legislature in the years to follow that they should provide for the education of boys and girls of this State, fully realizing that that power rested in the legislature without that legislation, directed that the legislature should make such provision for their education. And so we today suggest that the legislature go a step further and make special provisions for those children who are unfortunate and who are unable to take advantage of the educational facilities sufficient for the ordinary boy and girl. Now, I am not so much interested in whether or not

the legislature of this State has some people coming down here to lobby. I am inclined to think so long as we have a legislature there will be people coming down to lobby, and I do not believe it is any more dangerous to have a lobby coming down here to ask the legislature to appropriate money for the taking care of the boys and girls of this State than it is to have them coming down to lobby for some other things. I think the legislature will take care of themselves on that subject, and I do not believe there is anything in this provision, as it occurs to me, and we have given it some thought that can cause this Convention to feel that there is a danger that the legislature will have to make provisions for children that they should not make provision for. If a child is defective, dependent or delinquent, why should not the State provide for it? There are other things to do with money besides accumulate it, and one of the things that the State of Illinois can best do is to provide for the future citizens of this State through giving education to the boys and girls to provide for those who are unable to accept the ordinary provisions of education. And so it occurs to me that this motion to strike out ought not to prevail. The amendment has been suggested by one of the delegates that the words "require or" be inserted. I am not opposed to that. I believe it possibly does clarify what is intended to be conveyed by the language in this section. I believe that this section should be adopted as it stands, and the motion to strike out should not prevail.

Mr. JOHNSON (Bureau). I would like to ask the gentleman from Cook (Mr. Hamill) one question so we may get it into the record clearly, and that is this: Do you think that the General Assembly under section one with the motion to strike out being carried, still has the power granted to it to do precisely the things which are sought to be done in the clause stricken out?

Mr. HAMILL (Cook). I understand that it has.

Mr. JOHNSON (Bureau). That is your judgment.

Mr. HAMILL (Cook). Yes.

Mr. JOHNSON (Bureau). And I quite agree with you, if that will help you any. Now, just a word or two regarding that motion. I think that the General Assembly has all the power necessary to carry out to the full everything that is suggested or mentioned or named in section one; if the whole section be eliminated. But still it is a recognized fact that the General Assembly so long as that constitutional provision has remained in the Constitution since 1870 has not come up to the full measure of its duty in the exercise of that power. Now, this is an intensely important question because it has to do with the citizenry of the future in Illinois. We may talk about good hogs and horses, we may talk about the accumulation of our millions, and yet at the same time we as a people neglect to care for the class of children which are indicated in the last clause of this section, then certainly our good horses and our good stock and our millions will be for naught. The real question in the age in which we are living is the question which has to do with the character and the intelligence of the man who votes at the ballot box. Now, it is true that there are religious organizations in this State and all of them, the Catholic church, all of the Protestant churches, are seeking now to do perhaps to the best of their ability to carry out the work which is included in the clause sought to be stricken out, and that is the work of charity. The children spoken of under that clause are wards of the State of Illinois and you cannot deny it. That state which does not rise to that conception that the children born into the world and not capable from any source of maintaining or sustaining themselves is hardly worthy of a place in the Nation. Now, as much as these religious organizations have done, and they have done splendidly along this line, the county court records disclose that fact, and as I said before the money that is being expended for that purpose comes out of those who in heart and soul are seeking to care for these dependent children. It is not a tax, it is a free-will offering. My judgment is we ought to turn the tables, the State of Illinois ought to be proud enough to feel keenly its duty to do precisely the thing that the eleemosynary or religious institutions are seeking to do in Illinois today; I think it is up to us to do it, and we could do it, the General Assembly has the power to do it if

you wipe out the entire section. They have a right to call upon the resources of Illinois to carry out that will; they have the right undoubtedly to tax us for that very purpose, but there is another subject matter that undoubtedly our educational committee had in mind, and that was this, although I am not a member of that committee, but certainly it must have thought of it as they considered this whole subject; now, we are to submit to the people, what is your will upon this subject; do you want these dependent children to be cared for by the State? Do you want to make it mandatory upon your representatives and General Assembly to do it, except we feel we ought to submit that question to the ballot box in Illinois as we hand down to them this Constitution, not granting them any more power than they already vested, or want the General Assembly in the future to understand that the People of Illinois have said we insist that you do the thing and that you care for these dependent children. That is the only purpose of this, isn't it, Mr. Chairman? The only thing is if the people of Illinois want to continue longer to forget the responsibility of caring for the dependent children and throw them back upon those who love children better than they do money, in other words upon the Catholic church, the Protestant churches and other institutions of the land who contribute freely toward the care of children and see that they may be safely cared for and do the best they can to develop them into good citizenry. Therefore, viewing the whole subject from that standpoint I cannot see any reason why the people ought not now squarely and fairly to meet this proposition and see whether or not they are willing to say now at the ballot box that we are now insisting upon ourselves, that we do this very thing. I am in favor of the report of the committee with perhaps the elimination of the words suggested by the gentleman from Macoupin (Rinaker). (Applause.)

Mr. SHUEY (Coles). I quite agree with the gentleman who has spoken on this subject in that it is the entire duty of the State to take care of dependent children, but there is one element in this matter that I cannot fully agree with unless I get more additional information on the subject. "The General Assembly shall also provide for the care and education of dependent, defective, delinquent and other children requiring special consideration." I can understand very clearly that the State should take care of a dependent child, one who is not able to take care of itself, or whose parents are not able to take care of it, but I do not see any good reason why the State of Illinois should take over every defective child unless that defect means idiocy or lunacy. Neither do I see any good reason why the State of Illinois should go into the business of caring for and educating delinquent children simply because they are bad, unless that condition is of such a nature that the State of Illinois is required to take over the child for this reason, and then I think it assumes the obligation of caring for and educating the child, but for no other reason. I would like to have the chairman of the Educational Committee if he will, explain if there is any merit in my suggestion or not.

Mr. BRANDON (Kane). That was discussed at length. We felt that the statute provides that the parent may be incarcerated for the abandonment of his children, and so on, that would be covered by the wording provided for. I just suggested, Judge, that if this motion were voted down I would immediately move to include the words "require or" as suggested by the gentleman from Macoupin (Rinaker). As I understand, you are worrying about the well-to-do family that has a defective son. Certainly under that wording the State could require at the expense of the parent, such care of that defective child as the State might see fit.

Mr. GORMAN (Cook). Mr. Chairman and gentlemen. In all the discussion which preceded the calling of the Constitutional Convention we were told that the purpose of this body was to correct some of the deficiencies in the present Constitution that had developed within the fifty years that have expired since the basic law was last written. We were told that there were several matters that ought to be taken care of, and that when these were attended to our work and our labor would be at an end. I have sat in this Convention from day to day during weary hours of debate, all calculated to

introduce into the new Constitution much surplusage that could very reasonably and rightfully be left to the General Assembly. When article 8 of section one was written into the present Constitution, Illinois was a much under-developed State. It was, in a sense, a frontier State. Education had not at that time taken root in the minds of the people as it has since. Our public school system was in its infancy and there was a desire upon our forbears in that Constitutional Convention of 1870 to admonish the legislature to introduce into the laws of our State a system that would uproot illiteracy and that would make the children of this State the equal of children of other States in the Union, and I think with the growth and development of our educational system we have achieved what the framers of the present Constitution intended. I do not believe that there is any danger of our taking a backward step along educational lines. The work of the public schools has proved to be a very successful one. We are all satisfied with it and I feel that in the march of progress our public school system will occupy its rightful place in the future. Therefore, Mr. Chairman, inasmuch as the children are adequately taken care of now under the high-minded conduct of our legislators of our cities and towns, and our county, I think it would be wise to leave out of the new Constitution entirely this proposed section and the section that is now contained therein. Therefore, I am in hearty accord with the amendment that has been offered by my colleague from Cook that we strike out certain words of the contemplated section so that the present section will be retained. In fact, Mr. Chairman and gentlemen of the Convention, I think we ought to go a step farther and strike out the entire present section and leave it to the wisdom, foresight and generosity of our legislators adequately to care for the education, not only of our normal children, but all delinquent and defective as well as all other children requiring special consideration. (Applause.)

Mr. SUTHERLAND (Cook). I move to close the debate.

VOICES. Question, question.

Mr. MILLS (Macon). I just want to say a word or two in reference to this matter. Every child has the inalienable right to be born with all its faculties in normal condition, and if for any cause any child shall be so unfortunate as to be born dependent, defective or become a delinquent child, the State owes to itself and to society and humanity to properly care for such child or children, or if they are not properly cared for, such children may and probably will become a menace to society and the State will be compelled to spend ten times the amount it would have cost to properly care for them in protecting society from the possibilities of crime of these dependent classes. I am therefore opposed to striking out this clause.

Mr. CRUDEN (Cook). I desire to ask a question on this sentence: is it the intent by this provision that the burden shall be shifted from the county to the State in the care of these delinquent and dependent children?

Mr. BRANDON (Kane). The word "State" as used in this section is understood by the committee to mean any political subdivision of the State.

Mr. CRUDEN (Cook). As I understand it, in the juvenile courts of our county, the general form of bringing the child before the court is he is charged with having no proper care and guardianship. I would hardly care to have that question decided for me by any member of the Board of Education or school teachers. I have here a statement taken from the records of the County of Cook with reference to the care of dependent and delinquent children. During the year 1918 there were dependents two thousand two hundred and ninety-eight, and in order that everyone here may be sure that the General Assembly has not neglected this thing entirely, I just quote this from the bottom of the statement, and it covers this question somewhat that Mr. Brandon has in mind. They are quoting from the laws of 1911, Revised Statutes, Chapter 129: "For the tuition, maintenance and care of dependent children. The law provides that the county may allow and pay every month fifteen dollars for each girl and ten dollars for each boy. Cook county pays no money to any other juvenile institutions than above. All these schools are for dependent children; delinquent children are committed to State institutions." I am not well posted on what the State does. I

thought perhaps they were doing enough when this sentence was included in the article.

Mr. BRANDON (Kane). We meant the county. The State shall see it is done.

VOICES. Question, question.

CHAIRMAN CORCORAN. The question is upon the motion of the gentleman from Cook to strike out the last sentence in section one. Are you ready for the question?

VOICES. Question, question, question.

(37 ayes, 31 noes.)

(Motion prevailed.)

Mr. LATCHFORD (Cook). I am in receipt of a proposal from the representatives of the Department of Labor, which was received by me too late to have it submitted to the committee, because the committee was ready to report when I received this communication. It is relative to the education of aliens, or people over the age of twenty-one who desire to become citizens of the United States. I am reliably informed that there are several counties or school districts, because of the Constitution of 1870, are not permitted to use school funds on that account. Therefore, I offer the following amendment: "Amend Proposal 359 by adding the following after the word 'State' in line 3, 'and other inhabitants who are eligible for citizenship.'" That is in the first section.

(Motion lost.)

Mr. DUNLAP (Champaign). I move the adoption of section one as amended.

Mr. JARMAN (Schuyler). I offer the following amendment: Add to section one the following: "that in all schools of this State, both public and private, the English language shall be the medium of instruction," and move its adoption. I introduced a proposal in this Convention which was referred to the Educational Committee, the substance of which is this amendment. I take it from the questioning just now that in the minds of many members of this Convention it is a matter of no importance. I hardly could get the consent of my own mind after having introduced this proposal to let the matter go without offering this amendment. It is a matter to my mind of very grave import, and I received this impression from many months of service as Red Cross Field Director in the camps during the late war. I met many hundreds and even thousands of young men who were born in this country and who had entered the army that were not able to read and write the English language. Now, the situation here is this: I understood from a statement of the chairman that there was a law passed by the last General Assembly which read as follows: "The instruction in the elementary branches of education in all schools in Illinois shall be in the English language." As I understand the situation the attempt was made in the legislature for a number of years to get that enacted into law without effect. I recognize that it is possible to include this principle in a law. I recognize also as a basic principle that it is important, to my mind, substantially to include it in the Constitution of this State. It has been included in the four Constitutions of this State, this very principle, and I recognize this very fact, in 1890, such a law was passed by the Wisconsin legislature, and also the fact is that the succeeding legislature repealed that very law and the Governor was defeated in that State on that very issue. Now, in the Nebraska Constitutional Convention they passed this provision as part of the Constitution: "And the common school branches shall be taught in said language in public, private, denominational and parochial schools."

As I understand the situation there are many schools, both public and private, in this State as well as in many other States of this Union in which the boys and girls are taught in and by languages other than English. This proposition does not mean that languages other than English cannot be taught in the schools. Far from it. I have no sympathy with that position, insisted upon by some. I believe we should learn of all peoples so far as possible, and the most illuminating study of peoples is through their language. Indeed, just now, I have no sympathy with the demand from some sources

that the German language should be omitted or taken from the curriculum of the schools of all grades. But my position is that no school in America of any grade or character, and anywhere, set up in localities where people speaking a foreign language are congregated, or elsewhere, should be permitted under our institutions to teach its pupils through any language other than the English language.

And I approach this subject from the standpoint of the State. To many, it may seem a little matter, an insignificant thing to be troubled about, not worthy of the time or consideration of a Constitutional Convention. But I submit it as a question of vast importance, demanding the serious consideration of every citizen who loves his country, and seeks to protect his country "against the insidious wiles of foreign influence," and establish American ideals. Washington said in his Farewell Address, and I beg you to remember that I am quoting from our first President, not our last, saying with almost the only display of emotion in the whole address: "Against the insidious wiles of foreign influence I conjure you to believe me, fellow citizens, the jealousy of a free people ought to be constantly awake; since history and experience prove that foreign influence is one of the most baneful foes of republican government." I suppose that Washington never dreamed, when he was warning us against "the insidious wiles of foreign influence" that it would ever be possible for foreign influence to attempt to substitute its language for our English as the common medium of instruction in our schools. Who indeed could conceive "the insidious wiles" of modern Germany? And yet we have needed the alarm of war to awaken us to the significance of the fact that in some of the cities and communities of this country we have elementary schools where German is the only language spoken, except in that room where English is taught as a foreign language.

Public education in America holds its commission primarily from the State, and should aim at the widest and most efficient diffusion of knowledge with a view to serving the state by rendering public opinion, the source of power in the State, as intelligent and as comprehensive as possible. Public education in America should aim constantly at national unity. It should itself, therefore, be united, in the sense of uniting its efforts in a consistent scheme, and of so co-ordinating its efforts as to develop a homogeneous product in its pupils.

All who value American public education and all who accept positions of trust in its scheme owe it to their country and their pupils to guard against the intrusions of elements from whatever source that are inconsistent with the ideals of American citizenship.

Public education is not directly altruistic, although the benefit it confers upon our youth constitutes a powerful appeal to the taxpayer. States educate their children because they must or else cease to be States; and more especially is this true in governments controlled by public opinion. And while States have no more right to exploit their children than parents have, they do have the right to provide for their own perpetuity and progress by preparing their future citizens to perform efficiently their duties. The true and final test, therefore, of every system of public education is, does it minister to national unity, to national perpetuity, and to national progress? In this country national unity is not a matter of blood but of ideas; in this respect differing from every other country. Germany, for example, is united, consolidated, indeed, because it consists of a homogeneous population of Teutons. America's population is not homogeneous in blood, and will never become homogeneous except through the dissemination and assimilation of ideas.

Not for the first requisite for disseminating and assimilating ideas is a common language. American ideas have been born in English and require English for their proper preservation and dissemination. I do not intend to take advantage of the present situation to indulge in Jingoism, but it seems to me most absurd, were it not so serious and alarming, that we should permit any school in this country, no matter what may be its local environment, to use any other language than our own English as its common medium of instruction. I think it is a reproach to any community of

the United States and a reflection upon its loyalty to American ideas, to have, not simply a public elementary school where German is taught, but to have German public elementary schools.

We hardly appreciate the enormous task this country faces in attempting to make Americans of our immigrants. We seem to have made every effort to protect by high tariff and otherwise our goods, wares and merchandise, but very little to protect our American institutions and American ideals. Do we know, for instance, that in 40 of our largest cities, including New York, Chicago and Philadelphia, and all the cities with 500,000 inhabitants, aggregating a population of 18,000,000, two-thirds, or 12,000,000, are either foreign born or of foreign parentage? How shall we ever make these millions think America if we do not teach them to speak American?

Let me give you a few facts about one of our States as found in a magazine article. In that State, at a convention of the State German Teachers Association, a prominent speaker from the State University, said: "Above and before all, we must finally establish the German tongue in our grade schools." Why? Evidently because to make a public think German it is necessary to make it speak German. And this is precisely the propaganda that Germany has been systematically carrying on for years. In this same State there are communities where one can see the sign "English spoken here," as it is found in Berlin. The churches, schools, business and social life of these communities are all conducted in German. In 1890 a bill was passed by the legislature of the State in question, providing that children of school age must attend institutions in which the English language was the medium of instruction. On this issue the Governor ran for re-election, but was defeated and the succeeding legislature repealed the bill. In one of the courts of this State, a young man, native born and 21 years of age, well dressed and intelligent, appeared as a witness, and had to have an interpreter. It should not be necessary to explain that this is the State that produced LaFollette and Berger.

To remedy this state of things is a great problem in this country today and is constantly growing more acute. Some one will of course say that if we place this in the Constitution it will antagonize the foreign vote; we have too long been temporizing with influences which tend to destroy our American institutions; we have too long been permitting time serving politics to sacrifice our American ideals. Some one will say it is legislative; we came here to re-establish and perpetuate our commonwealth which we all love. Shall we raise an academic question, and refuse to safeguard the Constitution of our State "against the insidious wiles of foreign influence?"

I do not pretend to say that the solution lies wholly in our public schools. I know that many other activities must cooperate in making our population homogeneous. But I do insist that any suggestion that leaves out the public schools will prove barren. Do what you can with the adults. You will have a constant army of children marching on to citizenship and if you wait until they have left school to begin your efforts at Americanization, you will have the task of Sisypheus.

In all the efforts we make to Americanize our public schools the fundamental thing is language. Our institutions, our ideals, our morals, our religion are all bedded deep in English. If we permit the children and citizens to live, move and have their intellectual being in the language and literature of absolutism, it will be well nigh hopeless to attempt to preserve a pure democracy among them. There has never been an absolutism among English speaking peoples.

We must be free or die who
Speak the tongue
That Shakespeare spake.

Moreover, there is no unifying force so constant and so pervading as language. Union is impossible without sympathy, and although sympathy sometimes springs up in us we know not how, yet no permanent and effective sympathy is possible between individuals or States without some common medium of communication. All the history of the world testifies to the disintegrating tendencies of polyglot States. Scripture teaches us the secret,

whether we choose to regard it as history or symbol. "Therefore was the name of it called Babel; because Jehovah did there confound the language of all the earth; and from thence did Jehovah scatter them abroad upon the face of all the earth." Union of hearts is good, and union of hands is better; but nothing comes of either without union of minds, that of ideas, which is only possible through language. To care for the minds of this Republic is to care first of all for its language, knowing that to have national unity we must maintain a national language. But to permit peoples to settle here in bodies, preserving their language, is to perpetuate sectionalism of the most dangerous kind; it is to spend money and labor in our schools to divide the National instead of uniting it.

Why then should we not take the first step towards curing this treason plot by resolving and placing in the basic law that every child in this country of school age shall be required to attend a school where English is the medium of instruction?

Our effort should be to use our schools for the promotion of American ideas and for the elevation of American citizenship.

I do not sympathize with any such cry as "America for Americans," nor would I withhold our best from any one who come to our shores. It is not that I love other countries less, but that I love my own more, that I say that every child in this country should be educated in an American school through the language of America; that every man who wants to vote in this country should be required to say what he wants in the language of this country; and that American schools shall be for America.

I have ventured to present this question to you in this brief and exact form because I feel its great importance. For more than a hundred years no one has dared to question our right to build on this continent an American Republic. Who shall now dare to question our right to perpetuate it as we began it in our schools? Their prime purpose is to minister to our needs as a State and we must make them safe for democracy. A foreign power had better seize our arsenals and ships than our schools. He is a public enemy who would in any way hinder them from teaching American ideas, cherishing American ideals, promoting American patriotism, and above all, producing American citizens, unhyphenated and uncompromising, a united democracy loving liberty, and thinking and speaking the language of liberty, our English, undefiled. (Applause.)

Mr. WHITMAN (Boone). I want just a minute to say to the gentlemen of this Convention that the ideas which the gentleman from Schuyler (Jarman) has expounded at such great length have already been attended to by the legislature of our State in better manner than he has suggested, and since we have trusted the legislature to pass laws covering these points, we can trust the legislature to attend to other measures. At the instance of the Council of Defense of Illinois at the last legislative session, a bill was passed covering these points exactly, which you may all read and see for yourselves have been covered better than the gentleman himself covered them, and I simply wish to reiterate if the legislature has now attended to this matter we can trust it to remain in the hands of the legislature to see that it shall be attended to in the future.

Mr. BRANDON (Kane). The time allowed has been exceeded by ten minutes, so I move you that this committee do now rise, report progress and ask leave to sit again.

Mr. GALE (Knox). The Convention has already voted that when we recess today we shall recess until four p. m. and I see no reason why we should not go on with the Committee on Education.

Mr. BRANDON (Kane). If the committee is ready to vote, I will withdraw my motion.

CHAIRMAN CORCORAN. The question is on the amendment of the gentleman from Schuyler.

(Motion lost.)

CHAIRMAN CORCORAN. The question now is on the motion of the gentleman from Champaign (Dunlap) to adopt section one as amended.

(Motion prevailed.)

(Chairman Woodward presiding.)

Mr. CORCORAN (Cook). Mr. President, your committee reports progress and asks leave to sit again.

(Report adopted.)

Mr. HAMILL (Cook). I move you that the Convention now recess until four o'clock this afternoon.

(Motion prevailed.)

THE PRESIDENT. The Convention stands recessed until four o'clock this afternoon.

Whereupon an adjournment was taken by the Convention to Wednesday, May 5, A. D. 1920, four o'clock p. m.

4:00 o'clock P. M.

The Convention re-convened pursuant to recess.

The President in the Chair.

THE PRESIDENT. When a recess was taken the Convention had been hearing the report of the Committee on Education. The Convention is now ready to go into the Committee of the Whole for the further hearing of the report of that committee. As chairman of the Committee of the Whole the Chair designates Delegate Brandon, of Kane.

(Chairman Brandon presiding.)

CHAIRMAN BRANDON. The Chair understands, gentlemen of the committee, that you have disposed of section 1 of the report and are ready to take up section 2. The Clerk will read section 2 of Proposal 359.

(Clerk reads section 2.)

Mr. BARR (Will). I desire to move the adoption of section 2, and wish to be heard upon the motion.

After the vote of lack of conndence in the committee that has already been had, I have some hesitancy in making any suggestions as to any other part of the committee's report. However, there is no doubt that delegates are generally not so very familiar with the purpose of this section, I deem it advisable therefore to endeavor to convey to the delegates the views of the committee on the purpose of this section. First, I desire to say, gentlemen, that section 2 of this article is the proposal of the committee. The committee felt justified in incorporating this section in its report as the recommendation of the committee itself, and it did not come in as a proposal presented to the Convention by any individual delegate of the Convention. The first part of this section is rather in the nature of a recognition of the University by the Constitution, and it is thought that the University, being the people's great educational institution of the State, ought to receive recognition in the Constitution of the people of the State. No doubt the question may occur as to why the University differs from other educational institutions of the State and should receive separate recognition. First, I want to suggest that the University is not a part of any of the departments of the State. The province of the University is different from that of the general educational system. The normal schools are part of the educational system and are more or less attached to the educational system and their business is primarily that of teaching, and teaching almost alone. The service of the University is very much broader and more extended than that of the matter of teaching and carries with it the matter of investigation and research and in that way assists very materially in developing the resources and contributes to the material welfare of the State. Most of the States, I think, of the Central West at least, that have Universities that are comparable at all with the University of Illinois provide in their Constitution a recognition of the State University. The University of Illinois has grown until, at the present time, its student body exceeds seven thousand students. It has in the State, in the neighborhood, I believe, of from thirty-five to fifty thousand students and former students of the University. I think it has had in all over one hundred thousand students. These men and women who have been students at the University of Illinois are in every county in this State, engaged in every line of industry and practically every line of

business. It is the feeling of the alumni of the University of Illinois and those actively connected with the University that this State in its Constitution should recognize the University. Secondly, the matter of the control and direction of the University is a matter which the students, the graduates, and those actively connected with the University feel should be provided for by the Constitution, and that the trustees should be elected by the people. At the present time, and I think since 1891, the trustees of the University have been elected by the people, but, of course, the legislature of the State can, at any time provide, that the trustees of the University might be appointed, or that its control might be handled in some other way, and it is surely important that the State University and its control and direction should forever be kept separate from the executive direction of the State. The success of a University, of course, is largely due to the continuation of a definite policy that need not be changed from time to time by the incoming or outgoing of a particular political administration. The University is so close to the people of the State of Illinois, the graduates of the University, and those who have attended the University are in every county and practically every town and city of this State. They look with much interest after the welfare of the University and the election of the trustees of the University of Illinois, by the people of Illinois, will keep the control of the University outside of the party political changes, and so the committee urges the adoption of section 2 of this article. The further provision "for the promotion of practical, liberal, and professional education of the people, and for the promotion of the public welfare by investigation in all branches of knowledge" is simply a general description of the purposes for which the University has been established and has continued its work.

Mr. DAVIS (Cook). The delegate from Will (Barr) has paid a tribute to the achievements of the University of Illinois and to its development under the legislation which, from time to time, has been enacted by the General Assembly of the State. Under the existing laws the trustees of the University are elected officers. It is just proposed by the provisions of this section to continue that system by a constitutional provision. It may be of interest to the delegates to know that only in five States in the Union are the trustees of the State University chosen in elections. In the other States they are appointed. It may well be that at some future time our own State may want to change the system of selecting the University trustees, but certain it is that the present policy of this State is to continue the system of electing the trustees. In a number of the States where matters of education have been given considerable study, plans have been evolved whereby the management and the directorate of the State University are not only charged with the administration of the affairs of the University itself, but the whole educational system. It seems to me there is no good reason for placing limitations upon the legislative assembly of the State. It might stand in the way of evolving a system of education which has proved to be successful in other States. It is not fair for us to proceed on the theory of any fear that the legislature through any of its enactments might do an injustice to the State University. In fact, as far as I know, the history of the University, as it was affected by the attitude of the General Assembly, the General Assembly of this State has been ready at all times to assist in the growth of the University, and in my mind a limitation upon the powers of the legislature, which might want to enlarge the sphere of activity and usefulness of the University, is an error. I move, Mr. Chairman, as a substitute motion, that section 2 of Proposal 359 be stricken out.

CHAIRMAN BRANDON. You have heard the motion. Anything further on the question?

Mr. HULL (Cook). I am inclined to agree with my colleague, Colonel Davis, on this subject. The trustees are elected now under statutory provisions and it is not to be anticipated that the legislature will, at any early date, make any change in that system, but if this article is approved it will for all time, or at least during the life of the new Constitution, make it impossible to change the system. Now, it may be that further consideration of the educational needs of the State will lead the public to believe, lead

public opinion to believe, that the educational agencies of the State should be combined together in some organic way. The University is only one of the educational agencies of the State. The public school system is another. We have five normal schools in the State, not counting the Cook county normal school. They are a great factor in public education in this State, and it is entirely conceivable that it may, in course of time be considered a wise thing to bring these agencies together in some correlated scheme for education in this State, and if you make these offices constitutional offices you may make that impossible during the lifetime of the Constitution. Gentlemen, I think it would be a great mistake to adopt the proposal, and I am heartily in accord with the amendment offered by my colleague, Colonel Davis.

Mr. MACK (Hancock). I desire to say that I am pleased to see creeping into these deliberations a disposition to put into the Constitution that which is only basic law. I believe that is a healthy indication, and, Mr. Chairman, I am also pleased with the growing feeling on the part of this body that greater confidence can be placed in the General Assembly, the body of the people, and that a greater desire is being expressed each day to confide to the General Assembly those things which belong in their hands, and I heartily agree that each of the gentlemen from Cook county in the suggestion made by each, that the legislature has handled these matters, that the General Assembly has taken care of them for a long time past, that, as I find it, the Constitution as it now exists contains no such provision and no such provision seems to be necessary and I desire again today to express that confidence which I believe should be expressed each day with increased zeal a super-abundance of confidence in what the legislature will do and what the people will do, acting through their legislatures. I am not in favor, Mr. Chairman, and concur with each of the gentlemen from Cook county in the feeling that time only will tell what should be done. I believe, as has been suggested, that the legislature has indicated a full and complete ability to handle the educational affairs of the great State of Illinois, and I find that existing in this Constitution, in regard to education and State institution very brief provisions which have been ample and sufficient for fifty years past, and hence, Mr. Chairman, I desire to enter with these gentlemen into a strong hope as to the pushing along of this Convention and as to the termination of its great activities in a reasonable time by virtue of the fact that we will insist on the rule we are making basic law, and that this is a Constitutional Convention and not the General Assembly of Illinois, and statutory provisions will be eliminated. Hence, Mr. Chairman, I desire to concur in the suggestion made here that if there exists any reason why this provision should go into the Constitution, I shall be glad to have that called to my attention and shall always be willing to rectify a change, not only in my declarations but in my vote, but at the present time, I am wholly and utterly unable to see any reason why the basic law of Illinois on the subject of education is not good enough as I find it in the Constitution of 1870, and hence I shall be compelled to join with the two gentlemen who just preceded me and say I am against this provision going into the Constitution of the State of Illinois.

Mr. DUNLAP (Champaign). This discussion clearly emphasizes the necessity of a little history so that some of the gentlemen may be better informed as to the reason why the State University was not mentioned in the Constitution of 1870. The University of Illinois, like a great many of the other colleges of our neighboring States, is a product of a land grant college act that was passed during the great crisis of the Civil War. In 1867, the legislature of Illinois decided to take advantage of that act and they created in Illinois a State University known as the Illinois Industrial University. In 1870, that University was not much more than an academy. I know because I attended that University in those early days myself. It consisted of only one building at that time. Now, they have something like sixty-five buildings scattered over that campus. My early experiences in the legislature of Illinois were something like this: In the session of that legislature preceding my entrance into it, one hundred and sixty thousand dollars was appropriated to the University of Illinois for a biennial period, and in

that appropriation was an appropriation for a building, and that appropriation, let me say, was more than double any appropriation that ever preceded it. For twenty-four years that University had existed from hand to mouth, as we say on the farm. It had wintered a great deal like a herd of calves on the windy side of a barbed-wire fence, sleeping on a straw stack, just barely enough to live through without the possibility of any growth of that institution, and when I came into the legislature here, some years ago, I found there was a prejudice against this institution. I found in seeking to enlarge the appropriations for that institution, that certain gentlemen were opposed to it from different parts of the State, and I found that when I sifted the matter down on the opposition it came in almost every instance from some district where there was a private institution. They were afraid if the State went into the educational business and undertook to have a great University, that it would drive them out of the educational field, it would drive these private institutions out of the educational field, and the appropriations for the University were opposed to the bitter end by representatives from districts in which there were such institutions. The history of events since that time, as appropriations grew and this University grew from year to year, in students and in equipment, was that while the University grew these private institutions grew equally as well in attendance. In other words, the creation of a State University was not a detriment to private institutions. This University has now, as the delegate from Will (Barr) has said, has over one hundred and twelve thousand ex-students scattered over the State of Illinois and in adjacent States, those who have attended the University in that time. They are in every gentleman's district, graduates of that institution, and they have the same interests in that institution that you gentlemen have who have graduated at Ann Arbor, Harvard, or any of the other great institutions of learning, have in your alma mater, and I want to say that any action taken by this Convention which would be inimical to the best interests of our great State University, would, in my opinion, meet with the disapproval of your constituents, who know what this University is and what it has been to this State. For many years this institution was run by an appointed board, but in 1891, the legislature changed it into an elective board and the reasons for that were on the part of those who desired that, and they were the alumni of the University of Illinois, and they came from the great City of Chicago, who worked for that, was not only to change the name of the University from Illinois Industrial University to University of Illinois. They wanted the members of the Board of Trustees elected by the people. This great educational system of this State, as they regarded it, was worthy of the attention of the voters of this State, and their interests at the election, and they wanted the people to know and to get close to the people controlling the activities of that institution, and it was for that reason that this matter of appointment of the Board of Trustees was changed to that of election. Now it has been running for upwards of 30 years as an elective body of trustees, and it is because of some action looking to the appointment of boards of trustees rather than election that those who have the interest of the University of Illinois at heart and who are best informed as to its best interests desire that this institution be recognized as a great educational institution of this State, and that the board of trustees be made elective for all times. They do not want the University's affairs made a football by any partisan use that might be made of the appointing power.

They do not want this great University when some Governor may come in who had a prejudice or grievance against it or through some influence that he might bring about secure the passage or enactment of statute that would provide for appointment of a board of trustees. If this institution means what I think it does to the people of Illinois, it means that they should keep control of it absolutely and put it into the Constitution of Illinois as a recognition of the fact that a University of this character is the University of Illinois in fact. In 1870 when this University had just been created there was no such institution as there is today, and for that reason, if for no other reason, it was not believed it was worthy of a place in the

Constitution of the State of Illinois at that time. That is the reason that there has been silence on the part of the Constitution of 1870 and that it contains no provision in regard to it. In many of the States, some twelve, I think, all of the Universities of the Middle West are recognized in their State Constitutions, and it would be ill-becoming, I think, in this Convention to say that the University of Illinois, our own University, conducting its activities as it has—it has reached into the activities of every phase of life in this State—should not be of enough interest to the people of Illinois to place it in the Constitution. It would seem to me to belittle it in every way. Now, the University of Illinois, while it is a great educational institution in many ways, it is more than that. It is an institution that reaches out into all the activities of our State. It is doing work along many lines; what it has done for engineering, for commerce, for agriculture, I think ought to be, if it is not well known to all of you, and it is not necessary for me to go into any details with that, but I want to say that that institution is dear to the heart of every student who has ever been in the University, and now for this Convention to say it should not have recognition here would, in my opinion, be a great mistake. I hope that the motion to strike this from the Constitution will not carry, and that we will take favorable action upon this section which has been reported by the Committee on Education. Without some recognition of the University in the Constitution as we are putting it, it would seem to those who read the Constitution of Illinois we have thought very little of that institution which they have created. I hope the motion will not carry.

Mr. HULL (Cook). Are you satisfied to strike out everything after the word "Illinois?"

Mr. DUNLAP (Champaign). I think there ought to be a provision in there with regard to the election of the Board of Trustees. I think that will not be out of line, and I tried to explain to you why I thought that was necessary.

Mr. WALL (Pulaski). You say the first appropriation was \$160,000?

Mr. DUNLAP (Champaign). I said the first appropriation prior to my appearance in the General Assembly at the session preceding that, that the highest appropriation was \$160,000.

Mr. WALL (Pulaski). Well, do you remember about when that was, Senator?

Mr. DUNLAP (Champaign). In 1891.

Mr. WALL (Pulaski). Do you know what the student body was then?

Mr. DUNLAP (Champaign). About four hundred.

Mr. WALL (Pulaski). What is the appropriation this year?

Mr. DUNLAP (Champaign). Five million four hundred thousand dollars for the erection of a building, I think in Chicago.

Mr. WALL (Pulaski). That belongs to the University. As a legislator I think you have done pretty well.

Mr. DUNLAP (Champaign). I have not done that.

Mr. WALL (Pulaski). What proportion is that to the entire educational appropriation in the State?

Mr. DUNLAP (Champaign). I think it is about \$15,000,000. Mr. Shanahan can answer that question with more accuracy than I can.

Mr. MILLER (Cook). Mr. Chairman and Gentlemen: I want to speak only a few words upon this matter. There has been more or less discussion as to what were proper matters to go into the Constitution. I do not know of any practical consideration along that line except this: that a thing which we all practically agree upon is a matter that is not likely to be changed, one we are not likely to want to change soon, or readily, may safely be put into the Constitution. If it is a controversial matter, if it is a matter about which public policy may change in a short time or within a few years, then it ought not to go into the Constitution unless some principle is involved. Now, this particular matter, surely can not be said to be one where public policy is definitely settled. One proof of that is the fact alluded to by one of the gentlemen from Cook, that only five out of the forty-two States have State Universities, in only five are the Trustees elected. Those five are be-

sides Illinois, Nevada, Colorado, Nebraska and Michigan. Among the thirty-seven States in which the Trustees are appointed are the great universities of Wisconsin, Ohio State, Minnesota, California, Washington, Virginia, Iowa and many others. All the gentleman has said about the activities of the University of Illinois certainly can be said concerning the activities of the University of Wisconsin. Why should we definitely tie the hands of the legislature in this regard when this State now stands among only five out of forty-two in the way that those trustees are chosen? Furthermore, in the report of the Efficiency and Economy Committee of the Fortieth General Assembly I find the following on page 432, among the recommendations: "That the five State Normal Schools be placed under the control of a united board." "The Board of Trustees of the State University should be appointed, or if it is continued as an elective body the time and manner of election should be changed so as to reduce the influence of party politics." "That there be established a State Board of Education which shall exercise general supervision over the public school system of the State and act as a co-ordinating agency for all educational authorities." The members of the Committee on Executive Department will recall about a month ago that there appeared before that committee the Superintendent of Public Instruction, Mr. Blair, and a member of the University staff, each one criticizing the other for classifying high schools in regard to the admission of their graduates to the State University of Illinois, and other universities. It was not a very edifying spectacle. It impressed, I think the members of that committee with the necessity of some co-ordination, and yet if this is put into the Constitution there is very great danger that that cannot be brought about.

Just one thing more. On page 427 of this same report of the Efficiency and Economy Committee, we find this: "Without in the least suggesting that the selection of the University Trustees by popular vote has not secured many able men and women on the board, it may well be questioned whether this is the best possible method of selection. If the selection were really made by the people as a whole it would undoubtedly tend to increase public interest and pride in the State University, but since Trustees do not need to be experts this method of selection would serve tolerably well, but they are in reality not chosen by the whole people but by those who select the other candidates of the party. The popular election of Trustees tends to lengthen the State ballot where it should be shortened and contains the possibility of injecting political considerations where they should not be allowed to enter."

Now, gentlemen, without attempting to express any opinion at this time, and without having any definite opinion as to just the proper method of selecting these Trustees, is it not plain that this matter is not at the present time a matter wherein we ought to crystallize for perhaps fifty years the policy of this State and needlessly tie the hands of the legislature and the people.

Mr. SUTHERLAND (Cook). I move the debate be closed.

Mr. HAMILL (Cook). I think the gentleman from Cook should withdraw his motion in order to give a member of the Committee on Education an opportunity to reply.

Mr. SUTHERLAND (Cook). I beg your pardon. In the dim light I did not see the delegate from Will on the floor.

Mr. BARR (Will). I thank you for your courtesy. I have been somewhat interested in the contention of some of the delegates that we should trust the legislature with reference to matters that the legislature might handle, and I am thoroughly in accord with that policy. I am, however, somewhat interested in the observations of some of the delegates who are very willing to urge the trusting of the legislature on matters of this kind, but are very reluctant to permit the legislature to have very much leeway in legislation that pertains to other matters that seem to me to be not of any greater import.

The discussion that has occurred here, it seems to me, has just justified the position of the committee in urging the adoption of this section. One

of the delegates has suggested that this is not a Constitutional matter. I submit that it is a limitation of the power of the legislature, and therefore is a Constitutional matter. Without a provision of this kind the legislature has full power to make any provision for the control of the University of Illinois. Since 1890 to 1891, all those who have been in close touch with the University know the method of the selection of its Board of Trustees, they are acquainted with the method followed previous to that time, and it does seem that a period of thirty years is a sufficient time to find out whether or not the plan is sufficiently satisfactory to become permanent.

It has been suggested that this provision ought not to go into the Constitution because a change in the method of the direction of the University and the selecting of the Trustees perhaps should be provided for. As I said a few moments ago, that is a reason why there should be a provision in the Constitution definitely designating that the Trustees of the State University should be elected by the people of the State and should not be subject to the changes of policy that might be brought about by changes of administration or changes of views in the minds of the legislators; that the University should be controlled by an appointed board, or by some board selected in some other manner. The present plan has worked well, satisfactory to the people and satisfactory to the University for thirty years, and must we wait until some other state or some other university has adopted this plan before we can become convinced that it is the proper method to pursue? The stability of management, the fact that the present officers of the University are not subject to political influence in the sense of administration political influence, makes the direction of the University stable and does not subject it to the changes that would be incident to the control of the University by the Executive of the State or by the legislature of the State, and so, gentlemen of the Convention, I believe that the University of Illinois, to me, not because I am a graduate of the University of Illinois, but as a citizen of Illinois, to me the most important institution in the State of Illinois, should at least receive recognition in the Constitution, as a part of the interest of the people of this State, and there should be provision made for the selection of the Trustees of this University to be selected by the people so as to keep the University separate and independent of State political control.

I desire to rise also to a point of order, Mr. Chairman. My point of order is that the motion of the delegate from Cook that this section be stricken out—the motion that was made previous to that was that this section be adopted—the motion to strike out is clearly the opposite of the motion to adopt, and it seems to me is out of order for that reason.

CHAIRMAN BRANDON. The question now is on the motion of Mr. Sutherland that debate be closed.

(Motion carried.)

CHAIRMAN BRANDON. The question is now on the motion of the gentleman from Cook, Mr. Davis, that the section be stricken out. The point of order raised by the gentleman from Will county is that the motion to strike out is not in order because it is not a proper substitute.

Mr. DAVIS (Cook). The point is not worth while arguing. I am willing that the vote be taken on the motion of the delegate from Will.

(Motion lost.)

CHAIRMAN BRANDON. The Secretary will please read section 3.

(Section read.)

Mr. ROSENBERG (Cook). I move its adoption as read.

CHAIRMAN BRANDON. The Secretary will please read section 4, the minority report.

(Section read.)

Mr. DUNLAP (Champaign). I have the adoption of the minority report in lieu of the majority report on section 4.

Mr. MAYER (Cook). What is meant in the minority report by the words "otherwise than through the power of eminent domain?" I do not know what that means.

Mr. DUNLAP (Champaign). Mr. Chairman, and gentlemen. It is with considerable reluctance that I present this minority report. I do it from a high sense of duty as a delegate in this Convention. I do it not to stir up trouble but to prevent trouble. I believe it is one of the most important questions that has come before this Convention. When our forefathers came across the sea and settled in this land of freedom it was to secure a divorce from the Church of England. In England they were required to pay taxes to the church, to support it, and were largely under the dictum of that church. When they came to this country they came here with the avowed purpose of worshipping God after their own hearts and without the intervention of a state church such as was established in the country from where they came. From that date to this in almost every Constitution, I do not know but every Constitution of all the states of the Nation there has been some provision for the divorcement of the church and the state. Prior to 1870 there was nothing in the Constitution of the State of Illinois, so far as I have been able to learn, with regard to this, but practices had grown up that it was thought were improper and should be prevented in the future, and so in that Convention of 1870 what is now article 3 of the present Constitution was adopted, and I refer to that because I want you to have the history of that article 3 and what it was intended to do.

In the Constitutional Convention of 1870, in debating this question, it was stated by both those who were in favor of it and by those who were opposed to it that it meant the absolute divorcement of the public funds for any use in support of or to be paid to any sectarian institution or school. I want to read to you just a short paragraph of the statement made by one of the gentlemen who was opposing the adoption of this article of this section. Mr. Hayes said:

"Mr. Chairman, I do not see the necessity for making the change provided in this section, as I am advised it will raise an opposition against the Constitution that will defeat it throughout the State, to insert that provision. I understand that the section provides that no portion of the population in the State acting in a public capacity shall appropriate their own public funds to the use of any school or institution of learning in which the Christian religion is taught. That I understand to be the meaning of this proposition." So you can see there was no question but what that was to be the effect of that section. The gentleman who proposed this article, Mr. Allen of Alexander, said:

"Laws, and especially such as are fundamental, should be made for the benefit of minorities, and not for majorities. This section looks to the protection of the consciences of the people of the State. It looks to complete separation of church and State. It looks to the maintenance and complete independence of individual opinions upon religious subjects, and to preventing any men being taxed for the education of his child in schools under the influence of sectarianism, and according to theories in matters of religion that do not receive the sanction of his judgment or the approval of his conscience.

"I know that my friend from Perry (Mr. Wall), is far from entertaining any such idea. But he would give the corporations the power to tax for the support of schools when they are under denominational influences. The moment we give this power we break down the common school system. Its great strength is found in the fact that the whole system has been free from any denominational influence whatever. Every man may send his child to school with the understanding that no question of faith is to be discussed, and no religious creed taught in the school-rooms. I am not saying that my friend favors anything else, for I know he does not; but the point of difference I make with those who oppose this section is this: I want to prevent a majority, I care not how large it is, from ever using the money of the people collected for school purposes in aid of any denomination whatever.

"I would have the Presbyterians, Baptists and Catholics expend their money for educational purposes whenever and however they think proper. It is their right to use not the public money, but the money donated by and to them in the furtherance of their respective denominational projects."

In the discussion, which is quite lengthy there is no departure from what the meaning of that section was thought to be in that Convention, and that was the law of this State, and the interpretation of the Constitution up until 1917; the Supreme Court of this State had up to that time taken a position upon this matter as indicated in a decision of the Court in 1888. This decision was the unanimous opinion of the Supreme Court of Illinois upon this subject. The case referred to is the County of Cook vs. Industrial School for Girls in the 125th Ill. Now, it is a little presumptuous for a farmer to be reading from law books in the presence of the great legal ability we have in this Convention, but I am not responsible for what the books contain, and I am only passing it on to you so you may see what the Supreme Court has to say on this subject. I am not going to undertake to read this whole opinion, because it is quite lengthy, but I am going to give you the gist of the decision of the Court upon this matter without burdening you with the whole decision.

I took the position before the committee that any money contributed to sectarian institutions for the support of dependent children was paid in aid of and to sustain that institution. Any money that was contributed must be for such purpose. In this case, that of the Industrial School for Girls, it was the case of an organization of what we might call a holding company for corporations, what is now termed a holding company through which they operate their different activities. In this case, this Industrial School for Girls was organized on paper through an act of the legislature of Illinois for the purpose of passing along to some of these institutions the funds that they felt they could not get directly, that through this intervening party, this organization of the Industrial School for Girls, they might secure some of the funds to sustain their own institution.

The following was the unanimous opinion of the court delivered by Mr. Justice Magruder:

"The theory seems to be, that, even if the two institutions are controlled by a church and are to be recipients of all the money paid to appellee, yet neither they nor their purposes are aided by such payment, provided only there is a consideration for the money paid. It is said, that these institutions furnish tuition and clothing in return for the money received by them, and that, as they earn what they get and are not the recipients of any gift or donation, nothing is paid in their 'aid' 'or to help support or sustain' them. The refused propositions assert the contrary of the view thus contended for. The determination of their correctness or incorrectness requires an interpretation of the language of section 3, and, therefore necessarily involves a 'construction of the Constitution.'"

Further on the court adds:

"It cannot be said that a contribution is no aid to an institution because such contribution is made in return for services rendered or work done. A school is aided by the patronage of its pupils even if they do pay for their tuition. Because the customers of a merchant pay for their goods, it is none the less true that his business is aided by their custom. The act under discussion is entitled 'An Act to aid industrial schools for girls.' If the payment by the county of \$10.00 per month on account of each dependent girl committed to such a school is no aid to the school simply because 'tuition, maintenance and care' are furnished in return for such payment, then the act is not properly entitled.

"The doctrine here contended for is an exceedingly dangerous one. In County of McLean v. Humphreys, 104 Ill. 378, it is intimated by this court, that the State is under obligations to protect and educate such classes of females, infants as were declared to be dependent girls by section 3 of the act of May 28, 1879, as that section stood before it was amended on June 26, 1885. Under this view, the industrial schools which teach and care for such girls, are performing, as substitutes for the State, a duty which the State itself is bound to perform. If they are entitled to be paid out of the public funds even though they are under the control of sectarian denominations simply because they relieve the State of a burden, which it would otherwise be itself required to bear, then there is nothing to prevent all public educa-

tion from becoming subjected, by hasty and unwise legislation, to sectarian influences. By section 1 of article 8 of the Constitution it is made the duty of the State to provide a thorough and efficient system of free schools. If statutes are passed, under which the management of these schools shall get into the hands of sectarian institutions, then, under the theory contended for, the prohibition of the Constitution will be powerless to prevent the money of the taxpayers from being used to support such institutions inasmuch as they will render a service to the State by performing for it its duty of educating the children of the people. It is an untenable position, that public funds may be paid out to help support sectarian schools provided only such schools shall render a quid pro quo for the payments made to them. The Constitution declares against the use of public funds to aid sectarian schools independently of the question whether there is or is not a consideration furnished in return for the funds so used.

"There is nothing in the doctrine here announced which conflicts with the case of *Millard v. Board of Education*, 121 Ill. 297. There the proceeding was by an individual tax payer against a board of education, and a majority of the court sustained the act of the board, which had no schoolhouse in temporarily leasing the basement of a Catholic church for the purpose of holding one of the public schools therein. But the board did not part with its control of the school. The scholars were taught by teachers, whom the board appointed, and under a system of instruction which the board described."

If that had remained, the Constitution of the State of Illinois had remained as interpreted under that decision of the Supreme Court, there would be now no necessity for changing section 4 of this report, but in 1917 the Supreme Court reversed itself and said in substance, that if the money paid to a sectarian institution was for the care of children, and that the amount paid was not equal to the amount that it cost to provide for the care of such children, that in such case it was not "in aid of or to ascertain" a church institution and therefore was not unconstitutional.

Now, I contend that these sectarian schools are supported by individual or society contributions. They are not run on the business principle of taking in enough money to run their business and making a profit, but they are sustained by contributions, and that means that they are not operated for the purpose of making money. They are operated largely, as I understand it, for the purpose of caring for the children of their particular sectarian denomination, whatever that may be, providing for their care and education, and any contribution that is made to them is in aid of such institution whether it is the full amount of the cost of the care and education or not. That is what the Supreme Court said in that decision. Now, we come to the point where the Supreme Court has reversed itself upon that and they say just the opposite, as I have stated. That requires if we are to divorce the church absolutely from the State, and it is necessary, we must provide some amendment to this section of the Constitution or otherwise things will continue to grow more and more from what they are at the present time. In 1915 the municipality in the County of Cook through its different divisions paid something like \$18,000, and now this year, as I understand it is something like \$300,000 to such schools. The trouble is not that they have not earned the money, but it is the question of the basic principle upon which our government is founded, the absolute divorcement of the State from the church, and the minute that you permit this thing to continue, why, there will be more and more influences brought to make this amount larger and the matter will go from bad to worse.

The question comes up perhaps as to just what is the proper thing to do at this time. That in my opinion is for you gentlemen of the Convention to determine in your own minds. If you are in favor of a policy that has been considered here by the Supreme Court of turning over to the sectarian institutions a portion of the public funds to assume the duties the State ought to perform, that is one thing. If you are to divorce the thing entirely you will adopt this Minority Report.

Mr. TRAUTMANN (St. Clair). If your substitute is adopted, will it prevent the various counties in the State from having their patients taken care of by the hospitals in the various cities that are controlled by sectarian organization as obtains now in the various counties?

Mr. DUNLAP (Champaign). I understand not.

Mr. TRAUTMANN (St. Clair). This would not prevent it.

Mr. DUNLAP (Champaign). No, this has reference to schools.

Mr. TRAUTMANN (St. Clair). You say it would not. What does the language mean at the end of line three and beginning of line four, "or for any sectarian purpose?" Now, hospitals are run for a different purpose than schools. This says "for any sectarian purpose." Isn't that language broad enough, Senator, to prevent the counties from having their patients taken care of at St. John's hospital, for instance?

Mr. DUNLAP (Champaign). The language of the present Constitution is the same, and it does not prevent their taking care of patients.

Mr. DAVIS (Cook). Mr. Chairman and gentlemen of the Convention. With every ounce of weight mentally and physically necessary I would fight for the proposition that would perpetuate the principle of the separation of the State and church. Those of my colleagues who have served with me on the Bill of Rights Committee know the position I have taken there in connection with that matter, and Senator Dunlap voiced my sentiments when he said we must remember the principle of the separation of the church and the State, in every phase of the Constitution which we are now drafting. When the courts began to execute the laws passed by the General Assembly of this State they found that a number of dependent and delinquent children who came under the observation of the courts had to be put into institutions for care and education. The State had not provided any State institutions for that purpose, nor did the counties or any other agencies of the State. It became necessary for the courts to rely on private institutions or provide agencies and provide institutions for the care of these dependent and delinquent children. As their number grew these private institutions found themselves in a financial situation which made it impossible for them to keep on accommodating the courts. A number of the State agencies, counties in particular and Cook county one of them made arrangements with a number of these private institutions for placing in their care the wards of the court and the charges of the State. The greatest number of cases arose under the operation of the Juvenile Court Act, and in the legislation which established the court and provided for its operation, care was taken by the legislature to give expression to the principle announced in our Constitution and repeated this afternoon by Senator Dunlap, for in that law the following provision is to be found: "A court in committing children will place them as far as practicable in the care and custody of some individual holding the same religious belief as the parents of said child or with some association which is controlled by persons of like religious faith of the parents of said child," and that has been the practice of the juvenile court in Cook county and I understand of the other courts throughout the State before whom cases of delinquent and dependent children came.

Now, the question was raised in litigation regarding the right of the county to pay out of its public treasury money which went into the treasury of an institution which admittedly was of sectarian or religious character, and the question went up to the Supreme Court of our State, and what did the Supreme Court say? In the case of Dunn vs. Chicago Industrial School for Girls, in the 280th Illinois, 613, the Supreme Court interpreting section 3 of the article under discussion said that public money cannot be paid to any sectarian institution in aid of that sectarian institution, but the court further said that the fact that in that institution where a child is receiving education and care, that same child is also given religious instruction, does not in any way conflict with the law or spirit of that section which prohibits the contribution of any money in aid of such sectarian institution, and the court laid down the specific rule that where the showing can be made, as was

made in that case, that the agency of the State was paying an amount less than the actual amount which it cost that particular institution to support that child, that not only was not the State agency paying no money in aid of that institution, but that institution was aiding the county and the State in making good the difference between the amount contributed and the actual cost. We are faced with a practical situation, if we adopt the provision which is incorporated in the Minority Report presented by Senator Dunlap of making it impossible for the agencies of the State to take care of its charges by paying an amount less than what it cost the institution where placed, and you make it impossible for the court to sustain and for the agencies to carry on the work in the matter of the care of delinquent. Is it fair, I ask you gentlemen of this committee, for the Convention to say in one breath that the care and education of the dependent and delinquent children is the charge of the State, and say in the other breath that we will, by a constitutional provision, make it impossible to carry that plan into execution?

Just one word about the financial question involved. I have been talking about this matter with some delegates to this Convention who come from counties smaller than Cook. I can conceive how in our county with the great number of cases, the county may build an institution specially designed for the care of those children, but what are you going to do in the smaller counties where there is a sectarian institution, or more than one of the different denominations, and only occasionally does the county or the State get a case that requires care, that requires education? Are you going to build one institution for the wayward girl, and you may have only two cases of that sort in your county, and another institution for the wayward boy, and you may have three cases of that kind in your county, and a third institution for the boy and girl who is not demented, who is not a lunatic, who cannot go to Lincoln, but whose mentality is such that he requires special care and special attention? Private charity and private institutions made up of good men of all religious denominations have developed first the idea and then put into execution the plan of caring for delinquent and dependent children of all grades and of all classes, and so county and State by an arrangement have found it convenient to take advantage of those existing institutions, and well does the Supreme Court say in discussing the question that it did not see any difference between an institution maintained by a particular sect and religion and a hotel which is being managed by an individual whose religious affiliations are unknown to those who go to that hotel, and well does the Supreme Court ask the question, what is the difference between the county placing those children in an institution where there is religious instruction in connection with the general education which is conducted by that institution, and one where there is no religious instruction at all, and the Supreme Court in this well considered opinion points out it was never intended by any constitutional provision to discourage the teaching of any particular religion in any institution whether maintained by public or private funds. I say I want to accomplish the same result as Senator Dunlap, I do want an absolute separation between the church and the State. I do not want the time to come in this State when money raised by taxation shall at any time be used for the support of any sectarian or religious institution, but I submit to you, gentlemen, as the situation works out in practice no violence is being done to this constitutional provision which was inaugurated in the Constitution of 1870. I hope the motion of the Senator, that his substitute be adopted in place of the section submitted by the committee will not prevail.

Mr. WALL (Pulaski). I am glad to say I am able to support section 4 of this committee's report as it comes from the committee, having voted against the other three sections. I feel like I am back at home again. I think that the reason for a divergence of opinion on this question in this Convention arises out of a misapprehension of the law concerning it as well as a misapprehension of the facts. On Monday of this week I became interested in this question and I went down to the Director of Public Welfare and secured from him a statement of facts concerning the delinquent dependent

and neglected who were being cared for by these various institutions, and some other facts relating thereto which to my mind clarified the situation considerably. Now, he reported that there were about 20,000 children in these various institutions; that they were being well cared for, that the board of public welfare once a year or oftener, inspected these institutions, and then he gave me a statement showing the names of these institutions, their locations and the amount of public funds that went into each institution for the last year, and I desire, Mr. Chairman, to have this statement with reference to the names of the institutions incorporated into the record.

Anna B. Millikin Home.
Addison Industrial School.
Addison Manual Training School.
Association Home Galesburg.
Bethany Protective Association.
Bohemian Industrial School.
Bohemian Training School.
Boys Home of McLean County.
Catholic Home Finding Association.
Chicago Industrial School.
Chicago Orphan Asylum.
Children's Home of Rockford.
Creal Springs Orphan Home.
Central Baptist Children's Home.
Chicago Foundlings' Home.
Chicago Home for Girls.
Chicago Industrial Home for Children.
Country Home for Convalescent Children.
Catherine Casper Industrial School.
Danish Lutheran Educational Association.
German Evangel Lutheran Weisenhaus.
Dorcas Home.
Edgar County Children's Home.
Elgin Children's Home.
Evangel Lutheran Kinderfreund Society.
Florence Crittendon Anchorage.
Galesburg Free Kindergarten.
German Evangel Lutheran Orphan Asylum.
Girls' Industrial Home of McLean County.
Glenwood Manual Training School.
Guardian Angel Home (Joliet).
Guardian Angel Industrial School (Peoria).
Guardian Angel Industrial School (Peoria).
Home (The) (Girard).
Home for Destitute Crippled Children.
Home for Friendless (Peoria).
Home of the Good Shepherd (Peoria).
House of Good Shepherd (Chicago).
Hudelson Baptist Orphanage.
Illinois Children Home and Aid Society.
Illinois Technical School for Colored Girls.
Juvenile Protective Association (Joliet).
Kettler Manual Training School (Chicago).
Life Boat Rescue Home.
Lisle Manual Training School (Lisle).
Lincoln Training School for Colored Boys.
Mary Lawrence Industrial School for Colored Girls.
Louise Training School (Glenwood).
Mason Deaconess Home and Baby Fold (Normal).
Methodist Deaconess Orphanage (Lake Bluff).
Mt. Carmel Faith Miss Home.
Nachusa Orphanage.
Jewish Home Finding Association.

Orphan Asylum for Southern Illinois (Cairo).
 Orphanage of Holy Child (Springfield).
 Orphans' Home and Farm School (Andover).
 Orphans' Home Association (Hoyleton).
 Park Ridge School for Girls (Park Ridge).
 Phyllis Wheatley Home.
 Polish Manual Training School.
 Protectorate Catholic Women's Legion.
 Protestant Women's National Association.
 Peek Orphanage.
 Rosecrance Memorial Home (Rockford).
 St. Hedwug's Industrial School (Niles).
 St. Joseph Bohemian Orphanage (Lisle).
 St. Mary's Home for Children.
 St. Mary's Training School (DesPlaines).
 St. Vincent's Industrial School (Freeport).
 St. Vincent's Manual Training School (Freeport).
 St. Vincent's Infant Asylum (Chicago).
 Salem Orphanage (Flanagan).
 Springfield Home for Friendless.
 Springfield Redemption Home.
 Swedish Lutheran Orphanage (Joliet).
 Vermilion County Children's Home.
 Winnebago Farm School.
 Women's Home Miss. Society (Cunningham Home).
 Woodland Home (Quincy).
 Carmi Baptist Orphanage (Carmi).
 Francis Juvenile Home (Chicago).
 Morgan Park Industrial School.
 Morgan Park Training School.
 Salvation Army Maternity Home.

There are thirty of this eighty-five who have received no public funds at all from any county or municipality in the State; fifty-five have received funds of less than \$392,190.41 total, which averages something like \$28 per child; there are thirteen thousand in the institutions which have received more or less of the public fund, which for the average child is about \$28 a month. There is nothing that indicates here from this statement that any one of these institutions received a dollar profit from any of the public funds that they received. Like the gentleman from Cook, and equally with the Senator, I disavow any intention here to show any friendship for a union of church and State, but I do radically disagree with the delegate from Campaign county when he says that the Supreme Court reversed itself in passing upon the question of religious freedom and worship as set forth in section 3 of the Bill of Rights, and as set forth in section 4 of article 8 of the present Constitution. I have examined these authorities with some degree of care, and I will say to this Convention if I am any judge at all of what an opinion holds, taking the facts of those two opinions, while they are distinguished, there is no reversal by the Supreme Court of itself whatever but on the contrary the same fundamental principles that were enunciated in the first decision touching religious freedom are faithfully followed down to, including the 280th Illinois, the Dunn case referred to by both speakers preceding me. Now, the question is not whether or not there is a contribution, whether or not there is any pay or compensation made to a sectarian institution or to a church or in aid of a church for sectarian purposes, in aid of sectarian purposes, but the only school which under the law, as defined by the courts that these children may be assigned to are industrial schools and associations whose charter show that they are schools, but incidentally connected with those schools is a form of sectarian religious worship, and whether they pay more than the actual cost to the school, they might pay more than the actual cost of the school to which they are assigned and less than it would cost the State, but whether that be true or not, the donation is to these institutions for school purposes and not in aid of any church or for any sectarian pur-

pose. Now, the statute in consonance with the holdings of the courts, and keeping in view the eternal separation of the church and State, and we are getting wider apart all the time, there is less danger now this minute of any union of church and State in this great day of religious tolerance and of freedom of thought and of action than there was yesterday or last year or in 1870. The tendency is not only to keep an eternal separation but to make it even wider apart than it has been before. The statute provides, "any male child under seventeen or female under eighteen may be committed to some training school or industrial school or to some association having for its object the caring for or obtaining homes for neglected or dependent children." "When a child is so committed the president, secretary or superintendent of such institution is, under section 7, article 175 of chapter 23, charities, made guardian of the person of such child and ordered to hold, care for, train and educate it subject to the laws which may be in force from time to time governing such associations or institution."

"Power is given by section 9 to cite guardian into court and require a full, true and perfect report as to its doings in behalf of the child. The court may remove guardian and take child away from association or institution."

Section 13 "provides for complete supervision by the board who shall annually or oftener require complete reports and pass annually or oftener upon the fitness of these associations or institutions."

"They shall be certificated for one year subject to immediate revocation for good cause shown."

Section 14 "provides these associations and institutions shall be incorporated and their charters inspected and that the incorporators shall be reputable and responsible persons and the corporations' objects and purposes shall be for public good."

Section 17 provides the court shall commit as far as practicable to some association controlled by persons of the same religious faith as the parents of the child.

Now, much has been said here that that is where this misapprehension of what the law is, is where, if there was any danger, that there might be union of the church and State, that there might be an appropriation used for sectarian purposes or appropriation in aid of some church, and that is the decision on the 125th Illinois by Judge MacGruder, a portion of which was read by Senator Dunlap.

What was that case, and the case in the 280th Illinois, the Dunn case? The case in the 125th Illinois was not decided upon the ground that this contribution or this money was appropriated and paid for sectarian purposes or that it was paid with aid of any church, but was decided entirely upon a different ground. That case arose under the act to aid Industrial Schools for Girls May 28th, 1879. Under this act one hundred eighty-nine girls were by order of the court committed, and the order read that these girls "be committed to the Industrial School for Girls at Chicago in said County of Cook, to be in such school kept and maintained," and so forth.

Bills for clothing alleged to have been furnished by said industrial school were presented to the judge of the county court who gave direction to the treasurer to pay. Suit was brought in assumpsit for tuition, maintenance and care at the rate of \$10 per month.

The court found the fact to be that these one hundred eighty-nine children were never in fact committed to the Industrial School for Girls, but such school only existed on paper and that the children were turned over at once to the sisters of the Good Shepherd and the House of Good Shepherd, two Catholic parochial schools, and all moneys collected paid to these two schools, which schools were chartered as houses for the "reformation of abandoned women."

Don't you see the difference in the facts and the protection our laws throw around these schools to which under its mandate these children may be committed, and the school in question in the 125th Illinois, the court found "that the so-called industrial school to whom the formal order of commitment was directed existed only on paper and was only another name for the last two schools mentioned."

The Chicago Industrial School for Girls does not come under the act and is not entitled to its provisions. It has not established or carried on an industrial school, nor a training school and the act did not contemplate that the duties could be shifted to other schools, not industrial schools, but each school entitled to avail itself should maintain a home of its own and superintend the training of its pupils, have no power to relinquish care and guardianship and surrender same to another corporation. In fact, there was no such school."

That is the 125th Illinois and that is the basis of the fear that has arisen that the present Constitution and the holdings of the court is not a sufficient protection against that great religious freedom that we all so worship and enjoy and are so proud of under the present Constitution and the American government.

That was a suit in assumpsit brought down there by this school against the county for the purpose of recovering, and the Supreme Court said that the county owes nothing, there is no contractual relation between the industrial school and the county, because there is no such a thing in existence anywhere.

Now, what is the Dunn case in the 280th Illinois? Gentlemen of the Convention, I might add in passing here I believe the time has come in this country when we should be exceedingly careful in our criticism of the courts. They are the safety valves through which we transact our business, and they are the guardians of our life, liberty and property, and whenever a great Convention, an august body like this composed of lawyers and Statesmen undertakes to say when they read a decision, that the court has reversed itself, it causes disrespect for the courts, the greatest institutions of liberty we have. It not only causes a disrespect possibly among some of the members who make these remarks, but they have friends and it percolates out to the public and like a snowball running down hill it gathers moss, and by the time it reaches the public in its ramification through the state it has grown into, not a mild criticism but into supreme contempt for that great institution, the Supreme Court of the State. In addition to that let me say that it affects the law-makers and the executors of the law just the same, so that I think especially in this day of unrest and disquiet in all American institutions we ought to be exceedingly careful in saying that the Supreme Court, or any other court of record, has reversed itself, by virtue of criticism or in any other way, tending to bring it into disrespect among the people, and especially is that true upon questions like this, where the Supreme Court gave probably more thought, more conscientious action, greater delving into authorities and spent more sleepless nights in the examination of questions of public conscience and religious freedom than any others, knowing how important they are to the people. I think all these cases have been well considered and I would not, if I had examined this question for six weeks and disagreed with the conclusion of the court, ever undertake to say that they had reversed themselves.

Let us see what they hold in the 280th Illinois in the case of Dunn vs. Chicago Industrial School for Girls.

The institution was organized as a corporation under laws of 1879; it had buildings, grounds and equipment consisting of recreation halls, shower baths, class rooms, music rooms and rooms for instruction in hand and sewing and domestic science. The inmates were taught the usual school studies and also cooking, music, sewing, embroidery, crocheting, laundry work, general housework and domestic work generally. Most of the girls were committed by the juvenile court of Cook county and all enjoyed the benefit of the care, instruction and attention accorded by the institution. There were eleven teachers who were sisters of Mercy and received the \$16 per month salary which goes into the common treasury of the order. Six other teachers belonged to no church. A priest is chaplain and conducts religious services and all inmates are required to attend. The school gets \$15 per month for each girl, which is less than the cost to the State for each girl committed to the State Training School at Geneva, which charge was \$28.80 per month.

Now, what did the appellants contend in that case? The parties who

won in the court below and were the appellants in the court above? What are their contentions now? Here is what they contended:

First, payment of public funds to a school under church or sectarian control violates the Constitution even when made in payment for board, clothing, education in arts and sciences and domestic science.

Second, no ward of the State can be committed to any institution where there are religious services or where religious doctrines are taught, but the institutions to which they may be sent must be absolutely divorced from religion or religious teaching.

I think you will agree with me when you hear what they say about the fundamental law on the subject. The proposition is not whether children shall be taught religion or whether they shall be under the care of any religious sect; the question that the Constitution raises is that we cannot pay or contribute in aid of any church for sectarian purposes, even a school that has connected with it a form of religious worship to which privilege the child is entitled. Instead of depriving the child, in addition to the main purpose for which he is sent to the school, in addition to that he is entitled to the privilege of hearing or attending religious worship. The contribution if it amounted to what it cost the State would not be in aid of the church but in aid of the school. I take the position that the Supreme Court is sound in this; when they say it cost me \$15 a month to send this child here, and it cost me \$28 to send it there; that that is not a contribution, even though we strike out the words "in aid of the church." It is a contribution to the State. If I give you, Mr. Speaker, \$28 and you give me \$15 you are not very much of a contributor to my welfare. My exchequer will get thinner each time we make the exchange. What does the Supreme Court say the law is on that? "A misapprehension of the attitude of the people toward religion as expressed in the Constitution," and then the preamble of the Constitution, and section 3 of the Bill of Rights, and then they pay some attention to section 3 of Article 8, the section now under discussion, and they say that the people declared no hostility to religion, and in proof of that they say they have exempted religious houses, religious grounds and so forth from taxation, and thereby indirectly have contributed to all the religions alike and the amount of taxes which will be due upon the property for the benefit received in teaching the principles of morality and immortality.

Now, they follow that up in the 281 and 282 Illinois: the first case is *Dunn vs. Addison School*, and the case in the 282nd is *Frost vs. Ketteler School*. Now, they hold in some other cases, the 93rd Illinois, "religion and religious worship are not so placed under the ban of the Constitution that they may not be allowed to become the recipient of any incidental benefit"—under this minority report it says you cannot pay a church anything. If your public school building was to burn down and you would go to an empty church and undertake to rent the church house you could not do it. Under this minority report if the church had a vacant lot that they wanted to sell to school authorities they could not do it. Such a divorcement was never contemplated, in my judgment, by the Constitution of this State. "Religion and religious worship are not so placed under the ban of the Constitution that they may not be allowed to become the recipient of any incidental benefit whatsoever from the public bodies or authorities of the State."

And they say in the 258th Illinois, the court uses this language in substance, "that the church can donate to county and the right of inmates to go to church and to have their funerals preached, and the court says that for the care given the body the State does not exact surrender of all care for the soul, religion is not abolished."

"No one can be obliged to attend or to contribute; but no one has a right to insist that the services shall not be held. The man of no religion has a right to act in accordance with his lack of religion, but no right to insist that others shall have no religion." Here the difficulty is to get the line of demarkation plain between contribution in aid of a church or for sectarian purposes and the contribution made to educate these poor unfortunate twenty thousand children in these various institutions who incidentally to

this education are receiving religious instruction that their parents professed and followed before they were sent there.

Mr. DUNLAP (Champaign). If you think that is so desirable don't you think we ought to have religious instructions in the public schools as well?

Mr. WALL (Pulaski). We have religious instruction in the public school in many instances. It is true the Bible, if objected to, cannot be read in the public school, but we have prayers, we have song services in the public schools, there is no prohibition to that, and no child in the public schools today is compelled, if you please, to worship against his consent, and no church under this law and under this decision in the 280th Illinois can compel any child to receive religious instruction against its consent, except as an incident to the consent of that child, and I challenge successful contradiction to this statement that you cannot point out to me any child who has ever received instruction different from the instructions his parents gave him.

I do not know what Chicago has done, but when I was sitting on the bench I never sent a child, and I never heard of any other county judge doing it, to any institution until I had followed out in letter and script the mandate that says he must be sent to a place whose religious instructions agreed with that of his parents.

The Director of Public Welfare tells me that it would cost in the neighborhood of twenty millions of dollars to build institutions that would give to these children the same degree of care and comfort and education that they are getting now in these various institutions; it would take twenty million dollars to do it. He said it would cost from one to two million to maintain the institutions afterward. Are we to go further into this maelstrom of extravagance that must be stopped somewhere, gentlemen? I do not care to discuss that feature of it, but I feel as a delegate to this Convention and as a citizen of Illinois that our religious freedom, our freedom of conscience, our eternal separation of church and State, the interests of these children, the condition of the public treasury are all such that we can well afford to leave the Constitution as it is under the construction of the courts as handed down, and our children and our children's children will be absolutely safe under its provisions.

Mr. TRAUTMANN (St. Clair). I move that we recess until eight o'clock.

Mr. WHITMAN (Boone). I desire to be heard just for a minute on that proposition. I speak as a physician as well as a member of the Convention, and I have no hesitancy in saying it is a physiological fact that after folks of forty-five to fifty years of age, and most of us have to say that we are that old, the brain can only work so many hours a day, and work efficiently well. After that we are apt to make mistakes and slips, if we work longer, and have to go over the ground again. Now, if we have a night session on top of what we had today, then you put the brain of every one of us in a condition where we cannot go home and sleep well and come back here at nine o'clock tomorrow morning and go along and function as we should. We can do more work in a specified number of hours, and do it well, than we can to stretch into the middle of the night, and with the speeches that are to come it is impossible to close up this matter tonight, and I am against the motion.

Mr. DUNLAP (Champaign). I make a motion as a substitute that the committee rise and report progress.

(Motion prevailed.)

(President Woodward presiding.)

Mr. BRANDON (Kane). Your Committee on Education reports progress and asks leave to sit again.

(Motion prevailed.)

Mr. DAVIS (Cook). Mr. President, in view of the fact that the subject matter incorporated in Proposal 359 is fresh in our minds and discussion is being had on the matter, I move that Proposal 359 be made a Special Order of business tomorrow instead of the Special Order of business arranged for heretofore.

Mr. HAMILL (Cook). It seems to me unwise that that should be done. Where Special Orders have been made, it seems to me that the Convention ought not at the last hour to upset the order of business for which gentlemen have made their plans in advance. A special order was made this morning for tomorrow, and it seems to me that should be adhered to.

Mr. DAVIS (Cook). Of course, it has to be conceded that the Committee on Rules arranging for the order tomorrow could not foresee the occurrences of today. I submit it is better procedure and better results can be accomplished by getting one matter out of the way at one time.

Mr. MIGHELL (Kane). I would like to say that this question is an important question. In the Constitution of Massachusetts the debates lasted for some three days. I do not think we should hurry this thing through in the manner desired by some of the delegates. I believe we should take much time to consider this question carefully. It is one of the most important questions which will come before this Convention, and I think a large number of delegates should be heard on the subject.

Mr. HAMILL (Cook). I withdraw my motion.

THE PRESIDENT. The question now is on the further hearing of Proposal 359 being taken up as a special order tomorrow morning instead of the Special Order reported by the Committee on Rules this morning.

(Motion prevailed.)

Mr. HAMILL (Cook). I move we adjourn until nine o'clock tomorrow morning.

(Motion prevailed.)

Whereupon adjournment was taken by the Convention to Thursday, May 6, A. D. 1920, nine o'clock a. m.

THURSDAY, MAY 6, 1920.**9:00 o'Clock A. M.**

The Convention met pursuant to adjournment.

The President in the chair.

Prayer by the Chaplain.

THE PRESIDENT. The Journal of Tuesday, May 4, 1920, was placed on the desks of the delegates on yesterday, and is now subject to correction. There being no corrections proposed, the Journal of Tuesday, May 4, 1920, will stand approved and it is so ordered.

Whereupon the Convention proceeded upon the order of Special Orders of the day, reports of standing committees, reports of select committees, introduction of proposals, first and second reading of proposals, motions and resolutions, unfinished business.

THE PRESIDENT. A few days ago Delegate Hamill circulated a petition and requested signatures thereto to ascertain the sentiments of the delegates as to whether or not they desired to have a session on Friday. The Chair is advised that about forty-eight delegates signed that petition. The Chair is further advised that many of the delegates declined to sign the petition upon the ground that the petition requested them to do nothing more than their oaths of office already required of them, and that therefore the number of signers on the petition was not indicative of the number of delegates who were willing to work on Friday. The Rules Committee is of the opinion that it would be inadvisable to attempt to work unless at least seventy delegates were willing to stay at their desks on that date. We should ascertain now whether or not it is advisable to attempt to have a session on Friday. I would therefore make the suggestion and request that we ascertain that by a standing vote.

Mr. BARR (Will). I would like to ask if that expression is intended to carry with it the intention to be here by those who vote to carry on business. It is not intended, as I understand it, simply as an expression as to whether or not we are willing to run, but the expression on the part of those who vote that they are willing to be here.

THE PRESIDENT. The Chair desires to emphasize the suggestion made by the delegate from Will.

Mr. BARR (Will). The intention is to ascertain how many will be here tomorrow morning prepared to work.

Mr. GOODYEAR (Iroquois). How long a time Friday are we expected to be here?

THE PRESIDENT. The petition circulated by the delegate from Cook, Mr. Hamill, as the Chair understands it, provided that the Convention should meet at 9 o'clock on Friday morning and adjourn in time for the delegates to get the noon train home. As many as are of the opinion that they can stay and work tomorrow commencing at 9 o'clock and concluding the work in time to take the noon train for home will please rise. It seems since only thirty-four have voted in favor of the proposition that it would be inadvisable to attempt to have a session tomorrow morning.

Mr. CUTTING (Cook). I did not rise for the reason that knowing that enough persons had not signed that petition to make it advisable to have a meeting tomorrow, I arranged definitely to go home tomorrow, but at a subsequent Friday I am perfectly willing to be here.

THE PRESIDENT. The Secretary advises the Chair he has a resolution on his desk introduced by Mr. Rosenberg, which the Chair will ask the Secretary to read.

WHEREAS, On the 4th day of May, 1920, Almighty God in His infinite wisdom summoned to her final reward after a lifetime filled with devotion

to her family and kindness to all, Mrs. Bridget O'Brien, beloved mother of Delegate Martin J. O'Brien of the nineteenth senatorial district, therefore be it

Resolved, That we, the delegates to the Constitutional Convention, extend our heartfelt sympathy to our fellow member in his bereavement, and be it further

Resolved, That this preamble and resolution be spread on the records of the Convention and that a suitably engrossed copy of the same be presented to Hon. Martin J. O'Brien.

(Resolution adopted unanimously, by rising vote.)

Mr. GREEN (Champaign). Before passing to the general orders of the day, may I suggest action upon this motion; I move that when this Convention adjourns for the day it adjourn until next Tuesday at ten o'clock in order that there may be no doubt about the business tomorrow.

(Motion adopted.)

THE PRESIDENT. The Convention will now resolve itself into the Committee of the Whole for the purpose of the further hearing on the report of the Committee on Education. The Chair designates Delegate Brandon of Kane county to act as chairman of the Committee of the Whole.

(Chairman Brandon presiding.)

CHAIRMAN BRANDON. The Secretary will read the minutes of yesterday as they affect the work on this proposal.

(Minutes read by Secretary.)

CHAIRMAN BRANDON. The question is on the motion of the gentleman from Champaign, Mr. Dunlap, that the minority report be substituted for section 4 of Proposal 359.

Mr. DUNLAP (Champaign). I would like to amend my minority report by unanimous consent.

CHAIRMAN BRANDON. The Secretary will please read the amendment proposed.

(Amendment read.)

CHAIRMAN BRANDON. Are there any objections to the minority report as read?

Mr. DAVIS (Cook). It has occurred to me that the orderly procedure would suggest the following course: If the present section of the minority report is omitted and the minority report substituted therefor, then this Convention might consider the time when that particular section is to go into effect. It seems to me the addition of the words just read would only confuse the issue. I am raising the question to give the Senator an opportunity to explain.

Mr. DUNLAP (Champaign). If there is any question as to the time, it can be amended by a simple amendment as to the time.

CHAIRMAN BRANDON. Are there objections to the inclusion of this sentence in the minority report?

(Amendment changed as proposed.)

Mr. SUTHERLAND (Cook). Before the debate proceeds there are one or two questions which I would like to ask for the sake of the record as to possible interpretation of the legislative intent in the future, as well as for my own enlightenment. I would like to have an expression by the chairman of the committee, or by such members as see fit in the course of discussion, as to whether or not it was the thought of the committee in framing the majority report on this section to depart in any wise from the basic principle laid down in the present section, that "no public aid shall be appropriated to any sectarian institution," and second, whether it was in any sense the intent of the committee to give to the new Constitution confirmation and approval of the decision of the Illinois Supreme Court in the Dunn case and succeeding like cases.

CHAIRMAN BRANDON. I will say in answer to the gentleman from Cook (Sutherland) that it is rather difficult for the committee to answer specifically questions which were not before them in the form submitted at this time, and I might imagine that any answer that might be made might vary among the members of the committee. Let me say that my attitude

in the matter in the consideration of section 4 was coupled with the thought that the adoption of the second sentence in section 1 which was defeated yesterday laid down a definite policy by which the State became the administrator of the machinery for the care of dependent children, either by requiring that they be cared for by some agency or by caring for them itself, and that under the determination of that policy the legislature should then retreat from its present position of using sectarian institutions as it saw fit from time to time in accordance with the progress of the program by which the State furnished its own or other facilities for the care of children. The gentleman from Will, Mr. Barr, would perhaps like to answer the questions as he sees them.

Mr. BARR (Will). I think it was the intention of the committee not to depart from that principle in any way whatever. As to the second question, in my opinion the committee did not intend to either approve or disapprove or were in any way affected by the decision of the Supreme Court on this question, and did not intend by reporting the language as it now is in the Constitution to be considered as giving its approval to the construction laid down by the Supreme Court in any case decided.

Mr. DUNLAP (Champaign). I think, Mr. Chairman, that as that is the point upon which the difference arises between the majority and minority report that I ought to state, so far as I am concerned in answer to the first question, that I, in my report, attempted to affirm the principle that was laid down in the Constitution of 1870 as it was interpreted up to the time of the decision of the Supreme Court in 1917, and in view of the opinion of the Supreme Court in 1917, in order to revert back to those principles that were laid down by the Constitutional Convention of 1870, that it was necessary to make a specific change in the reading of section 3 of the present Constitution in order to revert back to that basic principle of separation of church and State, and that is exactly the question upon which the minority report was made.

Mr. CORCORAN (Cook). As a member of the committee I will say we took up section 3, and it contended all the way through it was simply a legislative question, and I was very much in favor of preserving the Article all the way through, from the time we first met, and I do not believe there is any necessity of changing this section that the State, or any subdivision thereof, would provide a place to take care of the children. I felt that it was simply a legislative question.

Mr. CARLSTROM (Mercer). I am opposed to the minority report as amended. I believe it is the introduction of an outstanding, vicious, religious, controversial question into the basic law of this State, which I believe none of us should permit to happen. If this amendment or this minority report has been in the Constitution of the United States, if the provision of the gentleman from Champaign (Dunlap) had been incorporated in the laws of the United States I would have had to permit out here at the Fair Grounds in the spring of 1917 a son of one of the best families of my county to die in his tent, because the Government of the United States could not have done what it did do. It contracted with the St. John's Hospital, so that boy and other boys from my neighborhood who were in the 6th Illinois Infantry were taken down and put in the proper and tender care of the Sisters of Mercy at St. John's Hospital, and the Government of the United States, your government and mine, contracted with them because they had facilities at the time for taking care of these men and were able to perform that service for the government.

Mr. DUNLAP (Champaign). May I suggest to the gentleman who has just spoken that this does not mention hospitals at all, and they are exempted.

Mr. CARLSTROM (Mercer). It says "other sectarian institutions."

Mr. DUNLAP (Champaign). If they are not exempted, they should be, but it is the opinion of the Supreme Court they are.

Mr. MIGHELL (Kane). Does not the majority report use the same language as the minority report?

Mr. CARLSTROM (Mercer). Yes, and I believe the majority report should remain. I believe by this minority report we are challenging the motives of the Supreme Court of Illinois, and are trying here by this to override that decision which they have made, and which I believe was made on sane, practical reasons. If the State of Illinois, which is the natural guardian and custodian, and which, as the State, is responsible for the care of defectives and dependents has not the means whereby it may discharge that obligation, there is no sane or reasonable man who would stand up and say they should not avail themselves of the means at hand to care for those children. Since this morning's session there has been an amendment offered to this minority report, which shows a lack of foresight in one feature of its preparation, and there may be many others of like character. As originally offered it would mean this, that when this Constitution was approved by the people of the State of Illinois immediately the State would of necessity say to these institutions caring for its wards: "We will not pay you one cent, you can throw them out in the street, or keep them if your conscience dictates to you the latter course, but we wash our hands of the responsibility." Gentlemen, I hope and trust that the members of this Convention will pause and think before they act on these matters hastily, and that we will not allow prejudice, a thing by the declared principles of our government we have frowned upon during the entire history of our national life. I for one rise to protest against the expression of a religious prejudice in the basic law of Illinois in violation of the declared attitude and principle of the Government of the United States. I sincerely hope you will defeat this minority report. I thank you. (Applause.)

Mr. TAFF (Fulton). It seems to me all the argument made against the minority report has been based solely upon the question that the dependents are the wards of the State. It is the premise upon which every argument against the minority report has started. I think it is conceded by all those who have spoken that there should be absolute separation between the church and the State, or sectarian institutions and the State, under the decision of the Supreme Court, as I understand it, counties can commit to sectarian institutions and pay for the care of those dependents in those institutions. That decision, however, goes farther than that and seems to base its result on the fact that the cost in the institution was less than the cost at which the State could maintain the child or the dependent. Now, if the child is the ward of the State it then undoubtedly has the right to the protection and the care of the State. If the child is the ward of the State it is then the duty of the State to take care of it, and it is the duty of the State not to pay a part of the cost but all the cost for the maintenance of that child, and no institution of the State of Illinois should be required to contribute in the nature of charity to the great State of Illinois for the maintenance of the wards of the State, if they are the wards; therefore I believe that it has got down to the clear cut question of whether or not we are to separate absolutely the State and sectarian institutions, or whether by the debates which are here taking place we are to open the door and say from now on the State of Illinois will not pay a part of the cost of the wards and of dependents which go to these institutions, but from now on will pay all. If it is just and right in principle that the State should pay a part of the cost, it is just and right in principle that they pay the entire cost of the care of those wards. For that reason I am in favor of the minority report.

Mr. MACK (Hancock). I want to say just a word, not so much for the benefit of this body, but that I may be right myself. It appears to me, Mr. Chairman, that on this substitute the whole vital, touching heartfelt question arises. Yesterday we had before this body the question of another section offered by this Committee on Education. Now, that we may call ourselves back from the point we departed, and no matter what we may do may act with full understanding in the matter of such importance as this, I beg to refer back to our action of yesterday. Yesterday we struck from the first clause the following: "The General Assembly shall also provide for the care and education of dependent, defective, delinquent and

other children requiring special consideration." We were told yesterday, Mr. Chairman, and probably we were told properly that that clause was unnecessary because the legislature of the State of Illinois had full control of that matter; the understanding with which this Convention voted upon that to eliminate from your report these words provided that the legislature should take this matter in hand and take care of it was because the statutory law had already provided for that which it was desired to embody in the basic law. Not only that, Mr. Chairman, but let me call your attention to the fact that yesterday, and that is a matter that made a deep impression upon my mind, that sitting yonder, the gentleman from Cook, the Speaker of the Lower House of the General Assembly, stated as a reason why that should not remain in the basic law of this State, not only it was a legislative provision, and if I am wrong, correct me, Mr. Speaker, it was stated by you that at the present time the State of Illinois was not in condition to take care of the vast tremendous responsibility which would be entailed by an affirmative proposition in the Constitution which was intended to come as a mandate from this body to the General Assembly compelling them to act at once upon all these numerous children, their lives, their health, their comfort, their morals, their good for all time and eternity—am I right, that is the position taken yesterday by the Speaker of the House.

As to the condition in Cook county I know not, and when I turn in this direction and look upon these gentlemen from Cook county who understand that situation, I am compelled to bow in deference to their judgment, and I hope, sir, before this discussion is over—and I hope plenty of time will be given to this discussion, it is a vital and basic affair, I take it as a matter of tremendous responsibility—gentlemen, I hope from this side, from the gentlemen who are thoroughly in touch with the situation in Cook county, we may hear. I do know, Mr. Chairman, the situation which exists down in the State. I do know from what I have heard here the situation as it exists in the great State of Illinois. I do know, sir, that it is recognized among lawyers in this Convention and I believe will be accepted by laymen as being true, that this provision in this Constitution has stood for years and years as being a statement clearly and effectively without any question the basic principle upon this subject. I do know, sir, that every lawyer believes that when a matter has remained in a Constitution for years and years and has been construed by their highest body, the highest court in this State, I know the lawyer is cautious of changing that, and I know that we should proceed with care and with seriousness and deliberation in a matter of this kind, and not in an amendment as intended here throw into that something which will change the whole meaning of it without consideration.

While we are discussing constitutional principles and trying to make ourselves constitutional lawyers we should not overlook the common dictates of humanity which take care of the child, and I cannot believe that the gentleman from Champaign county (Dunlap) is correct when he answers us by saying if we refuse this help that these institutions will retain these children and they will be taken care of, nor do I believe the great State of Illinois should pay hundreds of thousands of dollars for sending these children to these institutions, should violate that pledge, nor do I believe that the General Assembly, joining in the suggestion of the gentleman from Mercer county (Carlstrom) that this provision does not take care of the difficulty and the original provision of this Constitution under which the legislature of the State of Illinois, sanctioned by the Supreme Court of the State of Illinois, regardless of sects and prejudice should compel the fatherhood, motherhood and brotherhood of man to take care of these little children. I insist that this great question, sir, which came from the people, if it shall be determined again, shall through the legislature go back to the people and remain where it belongs, and I sincerely hope in its purity as construed by the courts and as acted upon by the legislature, that this provision of the Constitution of the great State of Illinois will be kept in its purity inviolate. (Applause.)

Mr. JACK (Jasper). Gentlemen of the Convention: I do not seek to speak on this question for the purpose of changing the mind or thought of a single delegate. I regard this article of a Constitution, as has been suggested by many of the eminent gentlemen here in the discussion, one of vital importance and of fundamental importance, and my only object in speaking is simply to get into the record of this meeting my position and my vote on this question. There is no recorded vote taken in this Committee of the Whole, and this question may not come to a place where I could have a recorded vote. That is my reason for taking this time.

Now, of course, I want to say that I have as high a regard for the Supreme Court of Illinois and the decisions of the Supreme Court of Illinois as any gentleman in this Convention. Considerable time was taken up yesterday to convince the delegates of this Convention that the Supreme Court had not reversed itself. So far as I am concerned I consider it no reflection on the Supreme Court of Illinois if it has reversed itself. I consider it as an evidence of progress and I consider it as a circumstance in favor of the court to give the people of this State more confidence in that court.

The question of respect of the Supreme Court and the decisions of the Supreme Court, in my opinion, does not enter into this argument. I do not think that we elevate that court by any laudatory remarks where the question of the Supreme Court is not involved. I yield to no man in my admiration for the Supreme Court and the decisions of the Supreme Court, not only of this State, but of the nation, because in my opinion the decisions of these courts in the main breathe the great principle of Christianity.

Now, I am going to explain a little further. Yesterday, when section 1 was under consideration and the motion was made to strike out the last sentence of that section, "the General Assembly shall also provide for the care and education of dependent, defective, delinquent and other children requiring special consideration"—and I say this only to get my position in the record—that I voted against the motion to strike that sentence out. Why did I do that? Simply because I believe that this Constitutional Convention should put itself on record as declaring for a great fundamental principle; yet, with the other gentlemen I believe the General Assembly of the State of Illinois now has power to do that. It has power to provide for a common school system without that first sentence in there, but the gentlemen of the Constitutional Convention of 1870 did not want to leave that question to the legislature of the State. Why? Because they wanted to declare for free public schools in the State. I wanted that section to remain in to follow and back up the minority report of this committee, for the same reason that the delegate from Carthage voted to strike it out, except mine was the opposite reason.

Now, I want to say I am in favor—and I believe it is fundamental—of completely, everlastingly and eternally so far as this government is concerned separating the church and State, and when I say that I say it without any disrespect to any church organization of the State of Illinois, but the gentlemen of the Convention know, and I know so far as my own vicinity is concerned, that this question is constantly being agitated and causing neighborhood broils and contentions. I know in my own county not over two years ago when the law was passed requiring the sanitary construction of school houses in this State in a district where the question was raised, where there was a parochial school in that district, the managers of that parochial school did not fix the school houses up to comply with the laws, and yet that same church had control of the public schools. I am not censuring that fact because I served on the Board of Education in my district with members of that church, and they have been liberal in the support of our public schools, but they did not repair the public school building to meet the requirements of the law, and they undertook and did for a while conduct a public school in the parochial school building on the ground of economy.

Now, sir, we are confronted with this fact, that there is one great institution in this country that has these charitable institutions. Not as a mem-

ber of that church, but as one that is not a member, I want to say I have always admired the great deep particular principle of Christianity in providing these institutions, and I say to the members of my own church that when you fail to meet this requirement you fail in your own religious duties and obligations, yet, sir, I am moved today to say that the great protestant membership of the churches throughout this State are protesting against the minority report. Why? Because it is the recognized principle under the construction given by the Supreme Court of the State of Illinois of public officials reaching down into the pockets of the public purse and paying for the keep and care of dependent and delinquent children out of the public treasury. They say they are not paying what it is worth. I want to say to you, gentlemen, that in my opinion I have faith in that great religious denomination and believe that if they never got one dollar from the public treasury of the State of Illinois they would not be derelict in their duty to charitable work, because long before this was done, both in the nation and in the State of Illinois we found them doing the same faithful service. I want to say to you I believe the great State of Illinois should take that responsibility and when they tell me that the State institutions we have have not got the same humanity and the same sympathy running through them for the care of children that these other institutions have, I say I do not accept that. I know in my own community where children have been taken to Jacksonville to the Deaf and Dumb Asylum and the Blind Asylum when four or five years old, and I particularly remember one beautiful young lady that from her early infancy was taken there, and the time came when she was anxious to come home, but she was just as anxious when vacation was over to go back to the institution as she was to come home to see father and mother and brothers and sisters.

I want to say to you I have faith in the human race, and I believe you find human sympathy flowing through the veins of our public officials.

I am not going to vote for this. Now, I want to make one further expression to explain my record. I voted yesterday against the motion to strike out section 2 of this Article. I wanted to retain section 2. Why? Because I believe that the great University of Illinois in which the people of the State of Illinois had poured millions and millions of dollars, by the sanction of the people of the State of Illinois, should be recognized as an educational institution in our country. I voted for it for another reason, that I believed that the trustees of that university should be put in the Constitution as elective officers. I want to say to you now that shall be my attitude, and every time it comes up in this Convention I am for the people electing the officers of the State of Illinois. I am opposed, when we get down to the fundamental principle of it, to this short ballot, and I want that to go into the record of this Convention so far as my constituency is concerned, that my vote shall be against centralization of power in the State of Illinois, and in view of that I have before me the great example now in the State of Illinois of appointing school officers, and I hope that the State of Illinois may never be privileged to see what we have seen in the City of Chicago in the last ten years in regard to the school officers there.

Now, I believe I have explained my vote, and what I have said has been in order to get my position in the record. I thank you.

Mr. MOORE (Macon). I would like to ask the gentleman from Champaign to answer the question which he failed to answer yesterday put to him by Mr. Mayer from Chicago. He did not explain what he meant by the language, "otherwise than through the powers of eminent domain." There are several gentlemen who would like to have information on that point, and I am one of them.

Mr. DUNLAP (Champaign). I will say to the Convention that was put in here for the reason that the principal objection of the members of the committee, as I viewed it at that time was because they said that some abandoned church site in some large city might be bought by the municipal government for school purposes and the word "to" was substituted in place of "anything," which would prevent the transfer of such property to the munic-

ipality, and it was for that purpose. This was put in to cover that, except in such cases they could proceed under the law of eminent domain.

Mr. MOORE (Macon). Then we are to understand, are we Mr. Chairman, that the State will never purchase any property from a sectarian institution or church except through the power of eminent domain?

Mr. DUNLAP (Champaign). Yes, sir.

Mr. MOORE (Macon). I would like to ask the gentleman from Jasper one question. In speaking of the kindness and interest shown in public institutions as being equal to that shown by the private institutions. I would like to ask the gentleman if he read of the treatment that the soldiers' orphans had had handed out to them at Normal recently, discovered under the inspection by the State officers.

Mr. JACK (Jasper). I will say to the gentleman that I had judged from what had come under my personal observation. I did not read that and I don't know, but if you were to investigate those reports concerning these State institutions, occasionally you might rake up a scandal, and I don't know but what if the same search light was turned upon other institutions that you might not rake up an equal number of scandals.

Mr. DUNLAP (Champaign). I would like to suggest to the gentleman from Macon (Moore) that those charges made there were absolutely denied the next day or two after that by those who had been quoted, and I presume that the gentleman from McLean might be able to add to that statement.

Mr. KERRICK (McLean). You say that was the report made by a State officer, do you?

Mr. MOORE (Macon). I think I was in error on that; the State officers were appealed to on account of it.

Mr. KERRICK (McLean). I wish to say this, that in Bloomington there is an organization of the Grand Army of the Republic, and the Woman's Adjunct Organization who, at stated periods, visit that institution and inspect it from cellar to garret, know about the treatment of each individual child, and then they report, and in accordance with my personal knowledge and my colleague's personal knowledge there was not one syllable of truth in that sensational report which a couple of visiting ladies got into the Chicago papers in the way of sensational news.

Mr. FIFER (McLean). I rise, not to participate in this discussion now pending before the Convention, but it is only to satisfy my friend from Decatur that there is not one scintilla of truth in the report that went out regarding the treatment of the children in the Soldiers' Orphans' Home at Normal, or at Bloomington, as we sometimes say. I was at the dedication of that institution in 1868, and I have been intimately connected with the management of that school from that day until the present. Its object at the outset was only to take care of the orphans of the soldiers of the great Civil war. I have been all through the Grand Army of the Republic, the Post at Bloomington, and have been from the time it started on committees for the very purpose of visiting the home and seeing to it that the children were properly treated and that the home was well conducted, and I wish to assure my friend from Decatur, and every member of this Convention that the home has been run from the time it was started to the present in the most capable and most efficient manner. The children are well clothed, well fed, and suitable provisions are made for their education. Now, it was my special business, and I felt more than an ordinary interest in that institution, because they were the children of my old friends and comrades, many of them who died in the service of their country, or from diseases and wounds they contracted in that great contest after the war was over. It created a sensation, that report to which my friend referred, in Bloomington, and every member of the Grand Army in that place would have risen up as one man if there had been anything wrong with the conduct of the Soldiers' Home at Normal.

Now, the law has been changed in respect to that institution in recent years, and they admit dependents, children who are not the children of soldiers, because there are very few now of children of soldiers left, and it was necessary in order to keep up the institution and to meet the demands

that were made upon the State for the care of dependent children that these others be taken in. So I could not remain silent. You can all understand that not only the local Post at Bloomington visits that institution annually, and sometimes twice a year, but committees are sent there by the Grand Army of the Republic, the State organization, so there are two bodies who appoint committees, and you can well understand if there was anything wrong in the institution as to the treatment and care of those children it would be quickly detected by those who have an affection that is out of the ordinary for the children inmates of that institution. I wish to assure my friend that I know personally the report that went abroad was absolutely untrue.

Mr. MOORE (Macon). I am glad I asked the question because it brought out facts clearing up the situation. The statement of the two gentlemen from McLean are certainly sufficient for me at any time.

Mr. CUTTING (Cook). Some reference has been made in debate to the fact there are conditions in Cook county, particularly relating to the Juvenile court of that county which perhaps might be of interest to the members of this Convention. I think those facts will be interesting. I am not going to discuss the underlying principles connected with this Minority or Majority Report, but I am going to state some facts as I understand them relative to the conditions in the City of Chicago, which would be precipitated by the adoption of the minority report. I think no one who is acquainted with me and my history will say I am particularly entangled with any religious organization or that I am in any sense in favor in the slightest degree of mixing the functions of State and church, that the American principle on that subject is as dear to me as to anybody, but I do happen to know, having been called upon to defend the offices of the municipal court on several occasions from attacks from the same person who brought the case in the Supreme Court which is reported in the 280th Ill., the Dunn case. I know that when the lower court, which decided in favor of the contention of Mr. Dunn, that there was consternation in the hearts of all the people who were connected with the juvenile court as to what they would be able to do with the children that were coming before them. They had no place to which to send them, and while I dare say that charitable institutions which had them then would not have turned the children out on to the street, because that would have been against all decency, yet there would have been no place for the constant stream of children that was coming into the hands of the juvenile court for disposition, and if it had not been for the fact that these institutions were willing to take and receive these children and continue their care and education pending the decision of the Supreme Court, a large portion of the functions of the juvenile court of Cook county would have stopped absolutely.

There is no institution of a public nature in Cook county to take care of this great mass of dependent and delinquent children. Institutions would have to be constructed, several of them, if those children were to be cared for. I need not say a great city always has within its population a great number of children of that character, and the juvenile court of Cook county was established by the legislature of this State out of a desire to care for and nourish and protect that class of unprotected and neglected children. It has done its work well, but like every other public institution which has undertaken to do anything for the betterment of the public or in the administration of its affairs, it has not been without its malignments; it has been attacked constantly and consistently by persons who have made the very allegations which were the basis of the case reported in the 280th Illinois. Not only that, but personal actions have been brought against the judge of that court, against his assistants and against every one who is connected with the administration of affairs in it, and they have been prosecuted to the verge of persecution in matters for which they were in no way to blame. I speak advisedly for I have had, of course without fee, the privilege of defending some of them, and in every instance the prosecution has failed ignominiously when tested in court. These children would have no place to go now and unless you can find some way by which the County of Cook can

raise the funds to construct the institutions and find the places for the disposition of these children it would be a calamity at the present time to pass this Minority Report and embody it in the Constitution of the State of Illinois. The period of five years which is now proposed, in some degree obviates that difficulty, but under the conditions which surround the State and all of us in these days of high taxes and tremendous expenses would not permit the county to get itself in condition to take care of these children.

I am not discussing the underlying principle, I am discussing now some thing which has grown up from a long continued usage and long continued construction of this Constitution we now have which has brought about a condition which ought not to be chopped off suddenly and leave the county and leave its dependent children without adequate places to go.

All I have said is entirely without regard to the question of how a politically managed institution in the County of Cook, or any where else, would compare with one which was under private control and under the management of those who are charitably disposed. I will not make that comparison. It is unnecessary, it seems to me, in the discussion of this matter, but that these children as a rule have been carefully looked after, have been fairly well educated, have been nurtured properly, is, I believe the result of the investigation of any body who has ever gone through with the affairs of the juvenile court of Cook county from the bringing in of the child to the time when it is discharged from any institution to which it may be committed.

I am at a loss to understand the argument that the State is in some way delinquent because it gets this for less than it costs when, if this amendment be adopted, the whole matter of taking care of these children will be a task upon the charitably disposed of the State and the State will get it for absolutely nothing. If it will pay a part of it it certainly is doing more than it would be if it got it as a gratuity. However, that is not the proposition just now. It is the question relating to the affairs in the great County of Cook, where I know that unless adequate preparation was made and adequate taxation added to that already burdensome to build large institutions to take care of those dependent and delinquent children who are now cared for in some sectarian and some not, institutions, that until that time the adoption of this Minority Report would be a calamity in that county. If sufficient time were given, sufficient aid were found, sufficient taxes levied, sufficient buildings created and manned by a proper force to do this work, then it may be I should vote entirely different, but now the opposite is the case and I shall oppose the amendment.

Mr. RINAKER (Macoupin). I think I appreciate fully the remarks made by the gentleman who has just taken his seat, and it is what he has said that has lead me to think more seriously than I was otherwise disposed to do about this proposition. To begin with, I am not entirely satisfied with the amendment as incorporated this morning in the proposal, the substitute proposal that is offered. In my opinion there should be added to the section as originally proposed such an expression as this: "This section shall not apply to any institution which has within two years prior to January 1, 1920, received public funds for services rendered until ten years after the adoption of this Constitution." Something of that kind will protect the situation as described in Chicago, it seems to me. Adequate time must be given to correct, what to me is one of the most serious and insidious invasions of the principle obtaining in this section of the Constitution as adopted in 1870. I have read since the discussion yesterday the two decisions referred to, and in the light of those decisions, notwithstanding the expression of the opinions this morning, diverse as they are, I cannot help but believe that the readoption of this clause in the language as contained in the Constitution of 1870 will carry with it the confirmation of that construction as given by the court, and will commit this State to the position that in any case where any sectarian institution is willing to take the burden carried by the State this article would permit the State to unload that burden upon the institution and rid itself of the duty imposed upon it and to turn over, not only the industrial schools particularly referred to in that decision and discussed by

the gentleman from Crawford, but every other charitable institution in this State and sectarian institutions.

More than that, I cannot see how that decision will not permit the State to directly appropriate money for sectarian purposes. It seems to me that that decision and the presentation of these two proposals before us bring us to the parting of the ways, whether we shall stand by the principles approved by every member who has spoken, that there continue to be a total separation of church and State, and whether it will put the approval of this Convention upon the idea that different churches, and I do not distinguish in what I have to say between one church and another, but that the different churches, separately or collectively, can take over the entire charitable work of this State with State support.

Suppose, for instance, over here in Jacksonville there is at least one and perhaps more institutions which provide in part for those insane; they are now, so far as I know, private institutions. Suppose one of them was taken over by any church, and it with the help of this organization creates an institution of some considerable size, and the time comes when there is a demand for the increase of the facilities of the insane asylum at Jacksonville, and this institution controlled by some church goes to the legislature and says, it is costing the State of Illinois \$75 a month to care for each inmate which is in Jacksonville. Our institution has a good plant. We have room for 500 more patients than we now have. With the assistance that we get from the charitably disposed members of our church we are able to charge off a large part of the overhead charge of any institution of this kind. We can furnish the same service. We will submit it for your inspection. We will take care of all those who should be committed to the Jacksonville institution for just half of what it is costing the State now. What answer will you make? Taxes are heavy. If you increase the institution at Jacksonville and there is some demand from Cook county and elsewhere, it is a great burden upon the people to add another million to the plant at Jacksonville. Shall it be said because of the burden of taxation we shall depart from the principle established and say that we don't propose to aid your church? We don't propose to contribute to sectarian purposes, but as a matter of relieving the tax payers of the State of Illinois of a paltry \$37.50 a head for the wards of this State and saving the investment in an additional plant at Jacksonville, we will accept your proposition and will not build the institution. Your employees may be kinder than the employees in the State institutions to those committed to them. You may look after them a little better. You may give a little religious instruction that we are not giving in the State institutions and that is desirable, and for that reason we will unload this additional burden upon this charitable institution controlled by a church, and I care not what church. Is that the principle that this Constitutional Convention is going to approve by the readoption of the exact language which has been construed by the courts, if I understand it, to permit exactly what I have suggested in this illustration as I understand the situation?

You can apply it to all the charities of the State, and I don't know but what you can go farther than that. I have for many years been connected with a college which at this time is not wholly unknown over the State by reason of the splendid work it is doing in the way of self help to those, not wards of the State, but to the poor who are yet ambitious and wish an opportunity for education. Our college is not controlled by any church, but a resolution of the Board of Trustees would put it in control of any one of the churches that would be glad to get behind such a work as a church work. It is costing us down there much more to take those boys and girls than perhaps can always be met; we are doing very well now. Suppose we readopt this Constitution and we go to the legislature and we say, it is true you shall never make any appropriation from any public fund whatever in aid of any church or sectarian purpose or to help support or sustain any school controlled by any church. Now, suppose we say our school is a praiseworthy one. The plan appeals to everybody, but we are hard up and we want a little money out of the State treasury. Under this construction of the court how can you say that the State may not help support that in-

stitution under that broad construction? It is not a gift for a sectarian purpose, but it relieves the church from the burden upon it to the extent it gives some help toward the operation of the institution. Other institutions would occur to all of us.

I am not going to talk longer, but I do think there is no impropriety, as there has been suggested by a former speaker, in the Constitution being amended to correct—it is not a reflection on the court—there is no clause of the Constitution perhaps that has not been suggested for the purpose of meeting some condition approved by some court or society or State. Here now is a condition that is before us. We are not legislating for a couple of years. We are reaffirming a principle that is at the foundation of this country of ours. Are we going to reaffirm it in its purity, or are we going to say in the progress of civilization that idea has become obsolete and we will abandon it? That is not the issue that is before us, Mr. Chairman, as I understand it, and as for myself without the slightest discrimination between the different religions that are doing the splendid work they are doing and which they will continue to do, the State should not accept as a favor or as a donation from any institution or any church assuming its duty as to those for whom no church makes provisions. Those are the ones to be cared for. Take that burden upon us. Is it not our duty? I feel it to be my duty to say that I prefer to stand upon the clear statement of the principles with this construction wholly eliminated; shall we stand on the principles of the fathers that there shall be an absolute separation of the church from State, and that we will not in a Constitution which we hope will endure for another fifty years approve and encourage the idea that has grown from nothing to the expenditure of \$400,000 in a year and the expenditure that may come in the next fifty years from \$400,000 to an untold sum, and to shift from the State and the citizens of the State upon private charity of a burden the State has assumed and should wholly bear.

CHAIRMAN BRANDON. Do I understand you are offering as an amendment that ten year clause?

Mr. RINAKER (Macoupin). I do if it would be in order in the condition of the record.

CHAIRMAN BRANDON. It is in order.

Mr. RINAKER (Macoupin). Then I offer this as a substitute for the amendment incorporated this morning.

Mr. DUNLAP (Champaign). I would like to inquire if that will prevent the appropriation of funds to other institutions that you have spoken of in your amendment?

Mr. RINAKER (Macoupin). I trust it would. My idea is this, that if pending the time when the present system shall be continued, if during that time there is not some such restriction as this there might be a number of similar institutions spring up to get aid, and we would add to the present unfortunate condition. The idea that I had was that those eighty-five institutions now receiving this aid should be protected, and that the localities supporting them should be protected for a reasonable time. It seems to me that ten years, in view of what has been said was not too long a time, and in the meantime the evil should not be permitted to increase.

Mr. DUNLAP (Champaign). I think I understand the delegate's suggestion. What I am aiming at in this minority report is to have the fundamental principle engrafted into the Constitution and not to create any hardship upon existing conditions that have been brought about through practices heretofore. I would be willing to accept the gentleman's amendment as proposed.

CHAIRMAN BRANDON. Are you asking unanimous consent to have this incorporated in your report?

Mr. DUNLAP (Champaign). I will do that, yes.

(Unanimous consent given.)

CHAIRMAN BRANDON. It is so ordered. The question is on the adoption of the motion of the gentleman from Champaign for the substitution of the minority report as amended for section 4 of the majority report.

Mr. DUPUY (Cook). Mr. Chairman and Gentlemen of the Convention: I shall vote against this minority report. I do it with a great deal of regret for several reasons. I was brought up in the Methodist church, for three or four generations we have been connected with that institution, and I revere it, and its teachings. But I think if we will divest this subject of everything except the simple questions at issue that we may get nearer to what would be a reasonable solution. As I see the matter before us, it is like this: the State has a vast number of these dependent and helpless children as its wards; what will it do for their nurture, maintenance, support and education? Two methods present themselves: one is to find homes in institutions at the partial expense of the State; the other is to undertake on behalf of the State and under its direction and control the erection and support of an institution or institutions in which they shall be cared for by the State. Now, is it better to adopt the former method of finding homes for these children at the public expense in well-cared for institutions where they will be under the immediate control and charge of people who have the most kindly and parental thought and interest in them, as I believe they have in these institutions, or is it better they should be collected in some great institution where they will be cared for in one great common body?

I am of the opinion, and I am discussing the general questions involved without much personal knowledge of the actual conditions, that these children may be better protected, cared for in these institutions where they are now placed than they could possibly be in a great common central State institution. The people who care for these children in various homes where they are now are charitably inclined people, no matter whether Catholic or Protestant. The women who look after those small young children are women of benevolent and kindly impulses, who do furnish to them that thing most vital and proper to the young child, namely, that kind of maternal care and attention that they would get in a well regulated home; not to the extent they would get it there, but much more nearly so than they possibly could get it in any State central institution. I have no doubt about that as a general proposition. Of course, there may be exceptions here and there, but that does not detract from the general proposition I am suggesting as being the situation. Now, the State finds it less burdensome, very much less burdensome, to care for these children in this way than to undertake to build up a great central institution. It is no objection, it seems to me, that the State does not pay the full and entire expense of all these children.

There are very many charitably inclined people who take pleasure in contributing of their superfluous or other means to the support of these institutions. Only a few days ago I had a letter from the president of the Children's Home and Aid Society to go to the First National Bank of this city to see about a bequest or donation that is being made by one of the relatives of an officer in that institution of twenty thousand dollars towards the support of their Children's Home and Aid Society. The people engaged in that work are of the most benevolent character; they are genuinely and truly interested in the welfare of these children. I contend that these children get much better care and much better protection and direction and religious education in a home of that sort than they would in a great central State institution, no matter how well it may be managed or run. Another thing occurs to me, with a great deal of emphasis, and that is this. Take it in those counties down State where the number of children is small. If the State undertook this entire burden in its own hands and administered it itself, it would have to have a central institution in each county, or every few counties, administered by the State itself or the subordinate divisions of the State, and I am very clearly of the opinion in such an institution the appointees, the persons having charge and care of these children receiving their appointments in a political way, would not be interested in the children and their welfare to the same extent that the people who take care of them in these private institutions are.

It seems to me this whole matter as it now stands under the decision and construction placed upon the present law and the present Constitution

by the Supreme Court is in a very satisfactory condition. The line is sharply drawn that there will be no money expended except for the support of the child. Now, whatever aid there is toward the institution itself comes only in the most indirect sort of way. The whole of the money devoted by the public on account of that child is spent in his care, nurture and support, who ought to receive some religious education. That that is the policy of the State is clearly shown by the fact that we exempt church buildings and properties devoted to religious worship from the payment of taxation. It is not that there is any objection to the teaching of religion, and I am of the opinion that they would get a better class of religious instructions in these various institutions than in a central State institution. If we have such an institution with the large number of children, we would have to maintain all the different forms of worship and the different kinds of religious teachings there, which would be very inconvenient, or else we would have to neglect it entirely. That I do not think is proper or desirable and should not be done. I am therefore in favor of continuing the arrangement as we have it now.

I did say to Senator Dunlap if he had such a clause as this morning suggested it would go far to meet the objections of those who opposed this substituted paragraph, but I still think that the situation which would immediately prevail if we undertook in any drastic way without regard to this amendment, to cut off the support of these institutions would be most disastrous. The children would find themselves without homes and the great stream of them coming into our juvenile and other courts would be a great embarrassment. It would be a very unfortunate situation. I think, Mr. Chairman, that is all I have to say. It seems to me we ought not to be taking a departure from the policy of the State as it now exists and has existed, and that there is no good reason for so doing.

Mr. GRAY (Adams). As a member of the committee, I desire my position upon the question under consideration to become a matter of record. The question has been asked by one of the delegates from Chicago what the committee had in mind touching this subject as to the use of public funds going to sectarian institutions. I voted for the majority report, and in voting for the majority report you will remember there was included in section one an additional sentence which we had thought would take care of the subject matter under consideration, and in view of that addition the committee thought it unnecessary to make a change in section three of the present Constitution, because reading the discussions in the Convention of 1870 it was unquestionably the purpose to prevent what the Supreme Court has permitted to take place. I desire to say I am opposed to a continuation of the principle in which the State is now engaged, in contributing public funds for the support or aid or in any way of sectarian institutions. That these institutions are doing a noble and grand work no one can question. I am myself a frequent contributor to these institutions, and I believe they are essentially necessary to the well being of our State, but I am actuated by an altogether different motive. From my earliest youth I have been taught and now believe that the policy of the separation of church and State is the very wisest one possible for this country to sustain, and therefore in view of the fact that the additional sentence under section one was defeated, and in order that we may go on record as being opposed to the further support of dependent children in sectarian institutions, I shall vote for the minority report, and desire my position to become a matter of record.

Mr. LOHMAN (Cook). I do not know whether the minority report takes care of all this situation or not, but to make myself clear in the record I am absolutely opposed to the appropriating of public funds for sectarian purposes. There is no question in my mind but what the framers of the Constitution of 1870 had this matter in mind and worded that section with the idea that no funds would be appropriated for sectarian purposes. The Supreme Court, however, has put a construction on this section that practically nullifies the intent of the framers. It has defined away the clear meaning of the plain words of section three, and has discussed freedom of religion and economics in connection with it. The section to my

mind needs amplification. It is true in Cook county we are now appropriating something like three hundred thousand dollars annually to sectarian institutions. I do not know just how much more throughout the balance of the State, but unless some change is made this amount will continue to grow in Cook county and in all the other political subdivisions, and it is doubtful if we can stand a drain of this kind. To my mind it is incumbent upon the State to take care of its dependents. The State is charged with the civil duty of caring for its unfortunates of every kind and character. As I said before I consider this matter for the State and not some minor political subdivision. I am absolutely opposed in no uncertain terms to the appropriating of public funds for sectarian purpose because I consider it unjust, unbusiness-like, and surely very unamerican.

Mr. McEWEN (Cook). For fear some inquisitive gentleman rises to ask me on what side of the subject I am, I will announce in advance for the purpose of placing myself upon the record exactly upon the different issues presented that I have voted against striking out the clause giving the General Assembly the power, or rather directing it to assume the power relative to dependents and other children. I voted to mention the University of Illinois in the State Constitution and I am opposed to the minority report which is now under debate on the subject of education. I am in accord with all the delegates that we will not consider a more important matter in all the considerations which we have given or will give to the Constitution. In the late war I had estimated and I had seen the figures which indicate that a nation engaged in a war was willing to spend and did spend twenty-five thousand dollars to kill a man of the opposing forces. If it is worth twenty-five thousand dollars to kill your enemy it is worth much more than that to create, build up and make a good citizen in the community.

I was impressed once, referring to the State university, by what Governor Altgeld told me after his term of office had expired. He was in a somewhat dejected state of mind. His administration had been the subject of investigation. There were many disappointments in it which he suffered. There were many things which occurred which he did not want to occur, and he felt that his administration would not be viewed in the light of history as a successful one, and in conversation with me—and I want to say that I have great admiration for Governor Altgeld—he said: “I know I have made many enemies. I know something about the controversies in politics, and what a man does in politics is soon forgotten.” He said: “One thing I wanted to stand up as a monument, if you please, to my life, and that was the work I had done for the State university.” We were discussing the fact that the treasurer appointed by him had embezzled over four hundred thousand dollars of the funds belonging to the university. Now, he said, “No one will know my motives and my purposes,” and he said, “I believe I have lost the credit for my action for the university, and in losing that I suffered the greatest disappointment of my life.” He said, “I advocated larger appropriations, the extending of its influence and courses, and I did want to be known as a man that had contributed something to that university.” So I felt that it would be a matter of honor to ourselves if in some way or another we recognized the State university in our Constitution.

On the subject of children I have a somewhat different feeling from my associate from Cook county and the City of Chicago. There is nothing that the City of Chicago, so far as I am concerned, is asking of the State at large, but what the State might ask for itself. We want you to understand the Chicago situation, and I want to assert that the average of the people in Chicago is no different from the average of the people down the State. If we could gather all the people down State in one big city you would find the same groups, the same collections, the same poverty, the same criminality, and you would find all those things that fester and develop in a great city, and the supposed superior personality of the State would not be apparent if grouped in the same conditions as exist in Chicago. I had the honor to sit many times in the juvenile court. The juvenile court was

not a product of the legislature. It was a matter of growth to supply and meet a demand. A great necessity was taken care of by the juvenile courts. Men who wrote the Constitution of 1870 did well when they declared for free common schools. The Superintendent of Public Instruction of this State told these delegates at the time of a previous hearing that he believed that section in the Constitution had been of enormous value and that it marked a line of advance, and he said he would not take it out of the Constitution for anything. It was not necessary as an authority to the legislature but it was a declaration of a pet public policy. They put it in the Constitution and the people of the State approved it, and it became the fixed policy of the State that the children could have a free common school education.

Mr. HAMILL (Cook). I rise to a point of order. The question before this committee now is a minority report. The gentleman occupying the floor has been speaking for some ten minutes and has devoted his entire time in discussing questions we disposed of yesterday, and I believe he should direct his remarks to the subject now under discussion.

CHAIRMAN BRANDON. I am sure the Judge is swinging around in that direction, but in the interest of time I trust he will devote the balance of his remarks to the matter under discussion.

Mr. McEWEN (Cook). I do not believe that anything that was ever made in a hurry was ever made well, and this subject is big enough to warrant complete discussion, and I have had infinite patience to listen to the rest and I hope they will have the infinite patience to listen to me. I appreciate the kindly intention of my friend, the learned delegate from Cook (Hamill) and the advice he gives from time to time, and I have the same kindly feeling for him that I have as I ride along the road and I see a sign and I hear a bell which tells me that six hundred feet away there is a railroad crossing and "To be careful and look out for the cars." (Laughter.) We have been warned from time to time and I hope we shall continue to be warned and the pathway pointed out, so that when we reach the crossroad or the fork in the road we will see that friendly sign that says the road to the right is the right road and that one mile down the road we will find a friendly garage with gasoline and air.

The subject of church and state is an old one. I am unable to see that there is any question of church and State involved in this question. I know in the history of the world we have seen the church attempt to run the State and we have seen the State attempt to run the church; both succeeded badly, and the wisdom of the fathers said we will draw a line between the two, but is there anything in contributing money to a sectarian institution which in part pays the expense and maintenance of a child, is there anything in that which tends to give that institution a control in the State?

Mr. RINAKER (Macoupin). May I ask the gentleman a question: Suppose the time you are discussing reaches the point that instead of twenty thousand there are one hundred thousand children in these various institutions, and then the several churches, instead of doing this longer at less than cost, they want a premium above the actual cost, what will be the situation of the State, having made no provision up to that time for caring for the children?

Mr. McEWEN (Cook). I do not know just to what your question is directed. The decision of the Supreme Court which I accept as law, would of course forbid the giving of that amount of money beyond the cost of the maintenance of the child, and the situation is one that I cannot conceive would ever arise. If the situation did arise the people of the State of Illinois and the legislature would no doubt meet it.

I want to say with regard to our juvenile court in Chicago and its conduct with the children there, that the movement for the juvenile court started with the Woman's Club of Chicago, charitable women and philanthropic women, assisted by the men who sought out ways to help the children, and it was soon discovered that it was necessary to have something more than charity, a kindly good will, and that there would have to be

some sort of a system worked out, and together with Judge Horton first and Judge Tuthill later, they started a court; not a very well defined court, and called for volunteers for parole officers, and the women went out and solicited people to come in and act as visitation agents. They went out and raised money and they spent it, and gradually the court and its system became a real institution. Then after some years of operation they came to the legislature and it became a law, and means were provided for the parole agents by which they could carry on the work of the courts, and it became an authorized thing, and after Judge Tuthill, there was Judge Mack. The court attracted attention all over the civilized world, and men came from Japan and from various countries of Europe to study the juvenile court of Chicago. Judge Mack was invited to address legislatures and civic bodies all over the United States; he travelled from Maine to California, and on the occasion of his making those trips, I had the honor of holding juvenile court in his stead many times. There is scarcely a State in this Union now that has not a juvenile court, and it all developed in the City of Chicago and State of Illinois, one of the greatest and most splendid achievements along the lines of improvement in social conditions.

At first the sectarian institutions were against this idea of the court; they were a little unfriendly, but as it grew along and it took shape and form, they all came in and gave their unreserved assistance, and there never has been any trouble in Chicago about the religious character of an institution or about the distribution of children between one institution and another. There is always an inquiry made as to what was the religion of the parent, and a sincere effort made to find out where that child belongs in his religious classification. In those early days, those institutions, Protestant, Catholic and Jewish, took those children and welcomed them and did not ask for a cent of compensation. It was an experiment. They were always loaded down to capacity. They did not know how much they needed, but as the idea grew they wanted a home for boys, and they raised money and with the donation of land by Mr. Gates at St. Charles, they built up that magnificent institution at that place, which was later on taken over by the State. The Catholics had a number of institutions, those of a penal character and those that are homes in the restricted sense; the Protestants have endeavored to make similar institutions, but not so many; the Jewish people have poured out their money without stint in taking care of children, and they have built up magnificent places. The people of Chicago have never hesitated in supporting these sectarian institutions or in their approval of them as places to send children.

The question of the gentleman presents a situation that is inconceivable to me, because these institutions like the Protestant, Catholic, and Jewish, are founded upon humanity and the love of children. To think that they would ever try to capitalize the child into a money making institution is beyond my power of conception. The different institutions have their representatives in courts. They look after the children of their religion, and are broad enough to try to help the man of the other religion. There is a splendid spirit running through all this social service, and I have never heard one word of criticism by one of the other, I never heard any bickering; sometimes a probation officer might not use good sense in his work of investigation of a family and sometimes it may be necessary to restrain one or the other, but on the whole, it is a magnificent work for humanity of which the State of Illinois ought to be proud, and the fact that Cook county has contributed or appropriated three hundred thousand dollars for this year is simply an evidence of how the people of Chicago feel regarding the children.

I would feel it a great loss to the children of this State if we lost the mothering effect and the character building force of these sectarian institutions. The State institution might be ever so good and ever so well conducted, but there is lacking the spirit of parenthood, and the child that goes there will come out somewhat lacking in his own self-respect for fear he may be criticized for having been in a State institution, but I do not

think that applies to religious institutions. There he goes as a part of his right, as a part of his birth, and as a part of his classification in society in religious matters, and he takes that as something he inherited, something that is his, something he may take without apology, and remember without shame.

I can conceive how gentlemen living far away from Chicago might think it was a bad tendency to use these institutions, but I am sure that no man who has been closely associated with this court can ever feel that it is of the slightest evil in effect.

To me the church ought to be a thing in society that helps build up the State by building up the citizenship of the State. I have no sympathy with the idea that would exclude that from the Constitution because it is not necessary, because the State has the power. I read that same Bible that the distinguished and venerable sage from McLean reads (Ex-Governor Pifer) and there I see when God created man he was first inanimate, and he breathed into him the breath of life, and he became a living soul because he had life and immortality, hope, and aspiration. If you put humanity in this Constitution you will make people interested in it, you will indicate something of the policy of the State, you will make a living thing out of the Constitution which the ordinary man may not take the time or has not the inclination to try to read.

I am in full accord with the Constitution as construed by the Supreme Court. I do not care whether the Supreme Court has changed round or not. If they had to face around the law as it is now, so much more to their honor, because the law that is not flexible enough to meet human conditions as they change is a law that human conditions cannot exist under. If you do not have a flexible law or a Supreme Court that will construe it according to humanity as it is, you will have to have a recall of decisions or the law will never fit. Our Supreme Court has shown in its wisdom what the law ought to be, what the members of the Constitution of 1870 would have said the law was if they could have conceived the situation which might arise in the latter days. I am glad of the opportunity to record myself against this minority report. I feel somewhat of a regret in having received so many letters from different churches supporting that amendment. In practically every instance that I can recall they were representatives that had taken no active part in the work of the juvenile court; if they had taken an active part in the juvenile matters of Chicago, they would have had a different viewpoint.

I see no menace in the Catholic religion, in the Jewish religion, in the Protestant religion; there are some who would abolish them all. I love them all. I do not belong to any church. I was born in the Protestant church, so I think I am speaking without prejudice. I do not believe that you can run a country without religion, and I don't believe you can run society without some training of the child along religious lines. These sectarian institutions become to me the ideal solution for the children that must be cared for. If you could look in these institutions and see the sacrifices and the devotion and the sympathetic loving human spirit that goes with the care of those little children, you would say that the State of Illinois ought to do something better than to interfere with those mothering, nurturing, aggregations of human kindness and love; there are wards filled in some of those institutions in Chicago where the infant children are taken care of; there are waifs, abandoned children, diseased sickly crippled children, and those who have an opportunity to look on that situation go away sickened with the thought of human neglect in parenthood. I cannot believe that men with a knowledge of the conditions in Chicago and the wonderful humanitarianism would say that you ought to take away the humanity which comes through the churches to those children or the share of the State in support of children on broad lines. I shall vote against this minority report. (Applause.)

Mr. DEYOUNG (Cook). Mr. Chairman and Gentlemen of the Committee: I shall be very brief. The gentleman from Cook (Sutherland) at the opening of this morning's session, made the inquiry whether or not the

Committee on Education intended to give to section three of Article eight of the present Constitution any construction, and the gentleman from Will (Barr) in answer to that question, disclaimed the purpose of the committee to give to that section and to section four of the majority report any definite construction. May I be permitted to call the attention of the gentleman from Will to the fact that if the present section is put into the new Constitution it will, despite any disclaimer to the contrary, give to that section a definite construction, and it will give to it the construction which the Supreme Court has announced in the case of Dunn vs. Chicago Industrial School, reported in Volume 280 Illinois, page 613, and in the three cases which have succeeded following that construction.

The gentleman from Mercer (Carlstrom) says that we are tending toward a recall of decisions, if this Convention should see fit to put a construction on that section other than that announced in the Dunn case. If such a suggestion is to deter this Convention from adopting a new construction, one different from that which the court has given to it, then we might as well say that where once a constitutional provision or a legislative enactment has been construed by a court, it will be a reflection upon the court, amounting to a recall of decision, for a Constitutional Convention or a legislative body afterwards to adopt a new construction. We know that the poverty and ambiguity of language are such that men with the utmost of care and reflection cannot foresee all the contingencies that may arise in the future, and often it has occurred to our own State that the constructions of constitutional provisions and statutes by the court of last resort have been set aside by change or amendment in order that, in the light of experience, the better and sounder rule might be made effective.

We have come, as the gentleman from Macoupin (Rinaker) so well said, to the parting of the ways. If we repeat section three of Article eight of the present Constitution in the new Constitution, then without any question we have adopted the construction of the Supreme Court in the case of Dunn vs. Industrial School, 280th Illinois, and the three succeeding decisions as the fundamental law of this State. Why, clearly, any lawyer knows, that if the question should arise again, the answer would be, the final answer beyond any possible doubt would be, that the Court had decided in the Dunn case that where the cost exceeded the amount paid by the public body there was no violation of the Constitution, and that the Constitutional Convention which sat in 1920 approved that construction by reiterating verbatim the section of the Constitution of 1870.

Let us not forget for a single moment, if we approve that construction, that it will be accomplished by readopting and reincorporating in the new instrument, section three of Article eight of the present Constitution. To repeat that section now will adopt and approve what the Supreme Court said in the Dunn case. In eighteen years after the present Constitution was framed, when the question was presented to the Supreme Court of this State, in the case of the County of Cook vs. Industrial School, 125 Ill., 540, it took a different view. I am not unmindful of the fact that an attempt has been made here to distinguish the County of Cook and Dunn cases, but very clearly the results of the two decisions permit of no reconciliation for they are clearly in direct conflict.

May I read what Justice Magruder said in Volume 125, Illinois Reports, where this section of the present Constitution was first construed? No member of the Bar questions his courage and the honesty of his convictions.

Judge Magruder said at pages 562 and 563:

"The women, whose names are written in this record, are animated by the purest motives. They are engaged in the best and holiest of all works, that of reforming the wicked and caring for the unfortunate. We agree with counsel for appellee that they do their work faithfully and well. It is so shown by the proofs. But it is none the less true that by the command of the Constitution, no county 'shall ever * * * pay, for any public fund whatever, anything * * * to help support or sustain any school * * * controlled by any church.' It is not for us to discuss the wisdom or unwisdom of this prohibition. There it is, couched in terms so emphatic

that it can not fail to challenge attention. Any scheme, even though hallowed by the blessing of the church, that surges against the will of the people as crystallized into their organic law, must break in pieces, as breaks the foam of the sea against the rock on the shore."

Where payment is made of less than the actual cost, it is still a contribution to an institution of that kind. I want to call your attention briefly to what the court said on this point in the Cook County case, 125 Ill., 569:

"The second clause of section three provides, that no grant or donation of land, money or other personal property shall ever be made to any church or for any sectarian purpose by the State, that is, the General Assembly, or any such public corporation, that is, any county, city, town, township or school district, etc. The first clause says that neither the State nor any such public corporation shall ever make any appropriation or pay from any public fund whatever anything in aid of any church or sectarian purpose. Evidently the second clause was intended to prohibit something different from the first clause. The second prohibits grants and donations, the first, appropriations and payments 'in aid.' If the appropriations and payments mentioned in the first clause mean simply 'donations' and nothing more, then it was surplusage to add the second clause to the section. Upon the plainest principles of construction, the first clause has reference to a different kind of aid from that to be derived from donations. Its language is comprehensive enough to embrace all appropriations and payments whether based on a consideration or not.

"It can not be said that a contribution is no aid to an institution because such contribution is made in return for services rendered or work done. A school is aided by the patronage of its pupils even if they do pay for their tuition. Because the customers of a merchant pay for their goods, it is none the less true that his business is aided by their custom. The act under discussion is entitled 'An act to aid industrial schools for girls.' If the payment by the county of \$10.00 per month on account of each dependent girl committed to such a school is no aid to the school simply because 'tuition, maintenance and care' are furnished in return for such payment, then the act is not properly entitled."

The famous provision of the ordinance of 1787 that schools and the means of education should forever be encouraged, we have reiterated in substance in every Constitution of the State.

Is there anyone who denies that the education of children is necessary for the perpetuity of the State and the republic? It is a trust discharged by the State in the exercise of its sovereign powers, Judge Magruder so well says, page 570:

"The doctrine here contended for is an exceedingly dangerous one. * * * Under this view, the industrial schools, which teach and care for such girls, are performing, as substitutes for the State, a duty which the State itself is bound to perform. If they are entitled to be paid out of the public funds even though they are under the control of sectarian denominations simply because they relieve the State of a burden, which it would otherwise be itself required to bear, then there is nothing to prevent all public education from becoming subjected, by hasty and unwise legislation, to sectarian influences. By section 1 of Article 8 of the Constitution it is made the duty of the State to provide a thorough and efficient system of free schools. If statutes are passed, under which the management of these schools shall get into the hands of sectarian institutions, then, under the theory contended for, the prohibition of the Constitution will be powerless to prevent the money of the tax payers from being used to support such institutions inasmuch as they will render a service to the State by performing for its duty of educating the children of the people. It is an untenable position, that public funds may be paid out to help support sectarian schools provided only such schools shall render a quid pro quo for the payments made to them. The Constitution declares against the use of public funds to aid in sectarian schools independently of the question whether there is or is not a consideration furnished in return for the funds so used."

I have no quarrel with the practice in the past. I recognize that the State has not fully discharged its duty. These institutions of mercy have undertaken in part the obligation and duty which rest upon the State and have discharged it. All respect and honor must ever be paid to those religious institutions which have rendered such mighty service to these unfortunate children of Illinois. We are here writing a provision of fundamental law and if we recognize this practice, with the door once opened, it may not stop with the present extent, it may be opened wider and wider and that is exactly the result to which the last construction of the Supreme Court may lead.

It seems to me if you adopt the last construction of the section under consideration, that of the Dunn case, then there is no option, and you can justify, if you will, other departures from duties now enjoined upon the State. We have come, gentlemen, to the parting of the ways; it is a serious question, and it cannot be disposed of by saying that these institutions are doing a great and noble work. While this work perhaps may be better performed than in an institution maintained by the State, yet the same argument can be directed to other wards of the State. Is it sufficient, because in certain respects these duties may be better discharged by private institutions, to set aside a fundamental principle, one which has obtained from 1787, recognized and reiterated and only recently to some extent construed away by the necessities of a particular case? I hope the day will not come when the application of a constitutional provision will depend upon the drawing of a line between what is cost and what is less than cost, a question of fact which may or may not have been correctly determined in a particular case. I think that the amendment offered by the gentleman from Macoupin states definitely and correctly a concrete question, a question which ought to be settled now. His amendment permits us to extricate ourselves during the period of ten years from a situation which we ought not to recognize as permanent or proper and which ought not to be approved if the theory of republican institutions, and that vital principle, the separation of church and State, for which our fathers fought and which cost so much in blood and treasure, are still sound. (Applause.)

Mr. HAMILL (Cook). May I remind my learned friend from Cook who next to last addressed this committee (McEwen) that it is negligence, as a matter of law, not to observe a sign, "Stop, look and listen?" Mr. Chairman, I am in some doubt upon the question pending before this committee. It is my present intention to vote against the minority report, and I shall briefly state my reasons for it. I recognize the force of the argument made by the learned gentleman from Macoupin (Rinaker) and the brilliant address to which we have just listened. I sympathize entirely with the point of view that the State ought not to shift its burden. I sympathize entirely with the desirability of guarding against the combination of church and State, but returning once more to the subject upon which you have heard me speak on several occasions, a Constitution is a limitation of power, not a grant of power, and we should put into the Constitution only those limitations which experience has shown are necessary. Now, I am somewhat in doubt whether our experience has shown it is necessary to restrain the legislature from enacting laws which will permit in some circumstances the payment of public money to sectarian institutions, which relieve the State of some burdens. I question whether it is wise for us to say at this time that in no instances may the State or any political subdivision of the State make payment in compensation for services rendered by the sectarian institutions.

In response to an inquiry put to the member from Champaign who has proposed this minority report, he replied that in his opinion this amendment if adopted would not forbid the payment by a county to a sectarian hospital which took care of a patient sent to the hospital from the county farm. I question the correctness of that. I take it that a hospital is a scientific institution, and scientific institutions are included, as I read the proposed amendment. I ask you gentlemen who come from down State, what is going to become of the patients who are county charges, who are

necessarily sent to a hospital? If I am correctly informed, but few counties in the State have county hospitals of their own, and county charges from time to time are going to require hospital attention, and most of the hospitals are sectarian. If your county cannot send its patients to a sectarian institution and pay for the hospital care that is given to them, the hospital care is going to be denied when necessary. That is one illustration. Others will suggest themselves to you. Once more, Mr. Chairman and gentlemen, I am not positive in my conviction on this, but it seems to me at this time unwise to suggest a limitation upon the power of the General Assembly. It seems to me we can leave it to the General Assembly and the courts to determine when the spirit of the Constitution as now framed is broken in upon. I thank you.

Mr. SUTHERLAND (Cook). I have been having more trouble about this question and the decision of what was right and wise to do in this regard than about any question that has yet come before the Convention. I thought when I came here this morning I was prepared to support the majority report of the committee, and I asked the question which I did for the purpose of making a clear record if possible, because it seems to me highly desirable that the language as it now exists in the Constitution setting forth as it does a basic principle of public policy, should be retained, and it should be retained as it stands and without any reference to any court's interpretation thereof. In other words, that any previous court decisions might be regarded as any other judge-made law, subject as judge-made law is, in time to change and reversal. I realize the situation existing in Cook county among other counties in the State with reference to care of dependents. I recognize it is done more cheaply by private institutions than by public, but Mr. Chairman, the answers to my question were not wholly reassuring. The delegate from Will (Barr) as the delegate from Cook has spoken today (DeYoung) did answer in a way that would have reassured me, but previous to his statement the Chairman of the committee made a statement that was supplemented later by a statement by a delegate from Cook which indicated an intent at least in the minds of those members of the committee to depart somewhat from the policy laid down in section three of article eight of the present Constitution, and Mr. Chairman, it seems to me dangerous to depart very far from that policy.

The delegate from Cook, the distinguished speaker of the house, (Shanahan) pointed out well yesterday the expense which probably would be entailed by the mandatory provisions of the last sentence, of section one as presented by the committee, and in conjunction with that, there is no doubt that the language with the proper interpretation which seems to be placed upon it in these debates would open the door of the treasury very wide indeed; this question does not seem to be one of a separation of church and State. The question of separating church and State seems to me to involve a protection against the domination of any one religious sect, but this seems to be a safeguard merely against the possibility of a strong and powerful organization, with powerful human appeals, being able to reach into the public treasury from time to time, and while Mr. Chairman, it is true that now your institutions, your wards of the State rather, may be taken care of more cheaply by private than public institutions, yet if this practice grows, there is no telling to what length it may reach. It seems to me, in view of the interpretation which is being placed on the present section of the Constitution, that it is wise to rewrite it and to take care of existing conditions and provide for the gradual readjustment; the amendment proposed by the gentleman from Macoupin is most wise. (Applause.)

Mr. GALE (Knox). I have listened to this discussion with a great deal of interest. I was glad to hear what the gentleman from Cook (Sutherland) has just said about the principle of church and State not being involved in this case because that seems so clear to me that I think there can be no question about it. After all, Mr. Chairman, the principle of the separation of church and State depends not upon written Constitutions but upon the ideas ingrained in our people, for no matter what you may write in the basic law of the State on that subject, if the time ever comes when the peo-

ple think it proper to have domination of the State by the church, the church is going to dominate, or domination of any church by the State, the State is going to dominate, and you cannot get away from it. But there is a principle involved here on which I think I can stand on every section of every article that shall come before us, and that was the principle adverted to by my friend from Hancock (Mack); what are we writing here? We are writing a basic law and the majority report rests upon that basic law and the minority report does not. It is the duty of the State to provide for the care of its dependent children and to provide for the care of its dependent sick, and it is the duty of the State to provide for them in the best manner possible.

At the present time, as the Constitution now stands and will stand if the majority report be adopted, that duty is still imposed upon the State and the State may use all those agencies which are in existence in the State to help it carry out that duty. The matter is left in control of the legislature. Every delegate who has spoken upon this question so far with regard to the minority report, has based his conclusions and his contentions upon the fear of what will happen in the State when conditions are different from what they are now, when there are so many dependent, sick, and so many dependent children that we have got to take care of in State institutions, that some institutions may reach into the public treasury and grab enormous amounts therefor. I say to that, Mr. Chairman, that the majority report leaves that question to the legislature to deal with when the time comes. I want to ask you gentlemen here, if you propose in this article and in the other articles to write a Constitution for the State of Illinois whose corner stone shall be FEAR? If you came here to attempt to wrap the State of Illinois into some sort of patent covering for the next one hundred years? If you have, you had better go home now. The people can be trusted to look after those matters when that emergency comes, and if you are going to put that sort of clause in now, what is it going to do to us when our dependent children come before the court? You say the State shall provide institutions for them. You are going to trust to the legislature to do that, and what is your situation now when those dependent children come in court? Where will they go? They will go to the county almshouse, and when the dependent sick come before us, in our country counties we have to send them to the sectarian hospitals, and where will they go to? They will be left to die on the streets, because our counties with the few patients requiring help, cannot possibly afford to build those county hospitals, and they won't build them, Mr. Chairman. When these dangers arise I have confidence that the legislature will take care of them, and that in the meantime it will use those institutions which it finds ready to hand. I have heard of no abuse in this State of that power up to date. I am afraid of no abuse in the future. What I am afraid of is that under the guise of keeping church and State separate you are going to inflict upon the helpless children and helpless sick of the State of Illinois cruelties of the old time when there were no such institutions any where provided for them. I sincerely hope, Mr. Chairman, that the minority report will be defeated, and that the majority report prevail.

Mr. MILLER (Cook). My present disposition is to vote against the minority report. I make this statement in the beginning because I would like to state briefly my reasons, and I am not sure whether my reasons would be considered by the delegates in support of my position or against it. It seems to me that there are two fundamental considerations which ought to control us in this matter. The first thing is, does the minority report, confirming as it does, and there is no question about my colleague's statement in that regard, confirming as it does, the last opinion of the Supreme Court in considering the present provision, does that provision so construed tend to unite church and State? If it does, then I am against it. That is one consideration. The other is, assuming that the present Constitutional Convention is so construed does not tend to unite church and State, then what is the best practical way to handle the matter, best for the children involved? Now, it seems to me, Mr. Chairman and gentlemen, that the last delegate from Cook who spoke hit the nail on the head when he said that there is

no question here involved of uniting church and State. In other words; that the present practice does not tend to unite church and State, and that the only question involved so far as that is concerned, is the question of using funds of the State treasury for schools. That is to say, what he terms raiding the State treasury. It seems to me that is the real question involved, because, may I call the delegate's attention to this question, under the proposal of the minority as now written, there is no prohibition against turning these children over to private schools, those maintained by the masons of which I happen to be a member of the order, those maintained by other secret orders, there is no provision against that in any way whatsoever, and therefore the question here involved is simply one whether or not this tends to unite church and State.

Let us see. This practice of turning these children over to these religious institutions under the practice that has prevailed has been in force for twenty years, I think somewhat more, but I think that is a conservative statement. What has been the tendency? Has any tendency grown up toward giving any one religious institution or any combinations of religious institutions control over the State government? Personally I do not know of any such tendency; if there is any such tendency creating any danger that the legislature cannot guard against, I would be for the minority report, but my understanding is at the present time, and I would like enlightenment if I am wrong, that this practice which has prevailed for twenty years or more has not tended in any degree to create a danger that any one religious institution or any combination of them, will get control of the State government. Now, if I am right on that, it would seem to me that there is no principle involved of connecting up the church and the State. Now, on the other question, as to what is best for the child, speaking unlike some of the other gentlemen who have spoken as one who is not a member of any church, but as one who has no religion that anybody would acknowledge as of that order, therefore I approach it with a little different viewpoint than some of the gentlemen have. It seems to me that one of the delegates here has correctly stated the situation when he said that the teaching of some religion to any child is better than the teaching of no religion, and now, what would the policy adopted in the minority report involve? Would it not involve the creation of public institutions where those children would be sent, where they would be perpetually forbidden to have any religion of any kind taught to them? Why should we object to that? What public interest is of so grave an import concerns us that we should provide by the Constitution that these children should be herded together where they would be forever protected against the teaching of any religion whatsoever? Obviously it seems to me the best way to care for these uncared for children is to put them, it may be in a private home; that seems to me everybody would admit would be the best thing for the child; what is the next best thing where that would not be done? Is not the next best thing for the child to go into some institution founded by those whose minds and hearts have been directed to the caring for children at their own expense because of their love for the children? Is it not better for the child to go to some institution where religion is taught, religion of some kind, and I care not what—it seems to me unless we are confronted by a danger of the union of churches and the State, that is a danger that some one religion or some combinations of religions will get control of the State government, and that I certainly would deplore as deeply as any man here, it seems to me that if we are confronted by any such danger that our experience of twenty years does not teach us that any such dangers lurks. Then why go any further with this fetich, which it seems to me in the absence of any tendency such as I deplore, why pursue that any further to the detriment of the children for whom we must care?

Now, just one word more. Yesterday there was voted down a provision placing upon the State the duty to take charge of dependent children. Surely if this minority report should be adopted, and that policy adopted, we would have the spectacle of the State being obliged to take these children and house them in a place by themselves. It seems to me the best interests of the

child; fraught with no danger to the State, after the experience of twenty years, points to a continuance of the present practice and the sustaining of the minority report.

Mr. MICHAL (Cook). I now move, Mr. Chairman, that debate close and we get down and vote on this proposition.

Mr. MIGHELL (Kane). I make a motion that the committee rise, report progress and ask leave to sit again.

Mr. GREEN (Champaign). What I have to say will not take over ten minutes. However, if it is desired to recess at this time I will defer my remarks until after recess.

VOICES. Leave, leave.

Mr. GREEN (Champaign). I presume what I have to say will be somewhat of a surprise to some of the delegates with whom I have discussed this question and with whom I have sought information. I do not believe any of us realized the tremendous importance of this question embodied in the two sections under consideration until we had heard this debate, and I do not believe we are even yet all of us ready to make up our minds. In order that there may be no misunderstanding about my present conviction about this matter, I am convinced after having heard the debate that my conscience compels me to support the principle in this minority report. I say that for the reason that I may be better understood in the brief remarks I have to make upon some fundamental principles that I believe are lost sight of.

Let us remember that education is not of itself a function of government naturally. It is simply an American ideal, and when we assumed the problem of education we departed from the precedence of history when we made it the duty of the State to educate youth. Now, that being true, it must be handled in a little different manner than those problems which are natural functions of government. It is a good thing everyone admits, every citizen admits, that he should accept the duty and the burden of educating the youth as one of the problems and one of the burdens of government, and none of us would depart from that ideal. I think it is time that we soberly reflect upon the difference between the burdens which the government ought to bear and the burdens which society should bear. We will never have a better public school system than the morale and the integrity and the character of the citizens of Illinois possess, and it is fundamentally necessary that burdens be borne by the citizen in order that he may function even as a part of the political organization of his State. I have been finally convinced in the position I shall take by the argument that has been advanced by the very able gentlemen from Cook, who, if I understood their arguments correctly, voiced a thought that lies at the root of many of the things for which the County of Cook is not especially proud, and that is that there is a tendency, especially in congested populations, for society to desert its duty and cast its burden upon the State, and in my judgment anything that is done by the fundamental law of this State that invites and asks society to shoulder the burdens of supporting the inmates of sectarian institutions, does a great injury to the individuals who otherwise would carry that burden, and after all what is the real question? The real question is not that shall these children be provided for, not whether or not they should be surrounded by religious influences, the real question is shall the State go into partnership with sectarian institutions and contribute a part of the burden they have assumed. I say no, that if a sect or a denomination builds an institution for educational purposes, it should be told by the fundamental law of Illinois that the State will never go into partnership with it. (Applause). But that it shall assure the burden of proper functioning that institution, and that is the only question that is raised in this debate, and I cannot see but that the argument for the necessity of the case are the strongest arguments why we ought to stand foursquare. They say the State would have an unreasonable burden. We say give them ten years in which to get in position to assume this burden, and for these societies to put themselves in position to carry the burden they have been undertaking to carry. We have been entertained with a twelve hour session with a recital of facts and conditions that the State of Illinois is not properly supporting the teachers

in the public schools, and they are leaving their profession, and they must have further aid and assistance, and I have a picture in my mind of a great sectarian body coming to the great commonwealth of Illinois and saying you may discharge twenty-five per cent of the teachers and turn over to our tender care fifty per cent of the youth of the State and let the State pay fifty per cent of the cost of the education, and by that process you have put the State in partnership with the sectarian body and put a burden on them we have affirmatively said in the Constitution is a burden of the State. That is not a picture without substance, because in the county in which I live I know a number of pupils attending parochial schools that would otherwise be educated in public schools from a matter of choice because they think they could get a higher class of instruction and if we do not announce ourselves squarely there would be nothing to prevent participation in the public treasury in the support of that institution.

You struck out of the first section of this article the provision that the State would undertake the burden of educating delinquent and defective children and made it necessary to stand squarely upon the proposition that you were not intending to cast that burden on any sectarian institution with the aid of the State, not in aid of the institution but to support the children, but you made it necessary to put a limitation on the legislature to force society to do its duty and not to stop it coming to the legislature for help and the necessity for limitation arises from the fact that it is not a question of what the legislature will do, it is a question of what the legislature might do, and we are urged to consider that if we have the public support and educate these children they may receive religious education, and that to my mind is the common argument why we should adopt this minority report in substance, because the very fact of collecting these children together in great numbers in public institutions may deny them the benefits of religious training, will rally in the minds and hearts of the good people of Illinois a proper recognition of their duties in the premises, and they will support these institutions that take the full burden of the care of the child in order that it should receive religious training and they will discharge the whole burden; there will be no question of the State interfering with that process because it is not a question of whether or not they receive religious training, because any religious training is better than none, but the very fact that they may be denied it will take the burden off the State and these institutions of society to carry it as they should. Therefore, when the legislature says we are powerless to help you, it seems to me that we preserve a situation which with ten years to right it, will put this State foursquare where it ought to be, that there shall never be a partnership or contribution from the Federal treasury to support the business for which sectarian institutions exists, but will carry the burdens themselves. (Applause.)

Mr. FIFER (McLean). Mr. Chairman, I speak in behalf of no creed, no sect, no church, because I belong to none. I shall undertake to speak in the interests and welfare of the whole people of our great State. In my liberality I have long since bridged the chasm of the creeds and now find refuge in no church. It has long been my belief that in every great human sacrifice, and in every great heroic act, God comes down in the form of man to help redeem the world, but oh, what a strange spectacle the history of this world presents when you touch this religious question. Go back over the shiny pathway of our civilization for eighteen hundred years and you will find that the darkest ages have been written by those who professed the faith of the meek and lowly Jesus who gave up his life on Calvary two thousand years ago and for the salvation of mankind. Now, for thousands of years the old world had a union of church and State, and in England and many other of the countries of Europe, that union exists today; a greater injustice and greater wrong it seems to me could not be perpetuated in this little world of ours. When our forefathers fled from the political persecutions of the old world and especially after the Revolutionary war they announced the American doctrine, the doctrine of the new world that forever and forever there should be a separation of church and State. That is one of the great policies in the free institutions of this great land of ours.

It is true that after the Revolutionary war, some of the colonies, the state of Virginia for one, continued the union of church and state, and the English doctrine of primogeniture, that the elder son should take the whole estate of the father. That was for the purpose, the undisguised purpose of sustaining an aristocratic form of government. Thomas Jefferson, by his political opponents, has been denounced as a demagogue. I have never belonged to the Jeffersonian school of political philosophy, but it was the hand of Thomas Jefferson aided by his friend and protege Madison, who struck down the union of church and state in his own native land and destroyed the principle doctrine of primogeniture. He struck at an aristocratic element, and they pursued him from that time down to the day of his death in his own state, and I believe history shows us that so bitter and relenting was that persecution that at no time in his own native state which he so greatly honored have they named a town or county after him, but that was the last of primogeniture. It was the last of the union of church and state on the American continent, and I say today, all hail to Jefferson and to Madison. Now, in every Constitution of every state in the American Union you will find provisions similar to the one that was reported by the majority committee which forbids the State to appropriate money to be used for any church or sectarian institution, and for that principle I stand squarely on both feet. (Applause.)

I am not only against the separation of church and State but I am in favor, as our Constitution of 1870 plainly indicates was the intention, the separation of church and sectarian institutions. Now, I have no quarrel with the decisions of the Supreme Court of Illinois. Possibly they were right in all the decisions they rendered when interpreting those provisions of the Constitution of 1870. It is my belief, however in spite of the interpretations that it was in the minds of the delegates of 1870 to exclude the use of the public money on all the uses to which it is now being applied. I can understand that the Supreme Court might reasonably decide the other way. Let that go. The question now is an original question and it is before the delegates to this Convention as to what they shall do in this particular. Shall we allow these organizations that have been mentioned here to continue to draw State money, or shall we not. Here let me pause to say that those gentlemen who were in favor of the minority report and who stand with me on that question, I want you to remember that a kindred question to this will soon be reported from the Committee on the Bill of Rights, and I do not want you to stand with me on this minority report and to change your minds in regard to the separation of church and State when it comes to that question. Now, what shall we do? The question is what is best for the State. Now, we cannot disguise the fact that there is a feeling over the matter. There is a bitter feeling over this question.

I am not speaking for any church or against any church. I am speaking for the good will, for the good neighborhood, for the friendship of the entire people of this great State of ours, and if this minority report is voted down and the old Constitution is interpreted by the Supreme Court is to stand, this will go on, and let me warn you that the second and third step is always easier to take than the first step. It will go from bad to worse, it will not cease, it will continue to augment until you cannot tell what will happen, and if I were the member of any church that was claiming more money than some other church I would be more earnestly in favor of this minority report than if I did not belong to that church. It will create bad feeling between neighbor and neighbor, it will break up friendships of a life-time perhaps; you know and everyone of you know about these things, and the only way our fathers when they came to these shores, and they were right about it when they said, we will forever separate church and State, and State and sectarian institutions. You cannot touch it and cannot handle it unless you set neighbors by the ears and break down old friendships. Men belong to different churches and they will never think about it, but when one of these questions arises it is the most hateful question on earth, and it has caused more blood shed and outrage and cruelty, and that outrage and cruelty has not been committed by one church, but by all the churches.

I think it is wise for us to stop here. I know there is a situation here where religious bodies and other bodies have taken over these little children, but our first duty is to those children, and the delegate from Macoupin (Rinaker) has offered an amendment that will postpone this Constitution taking effect for a period of ten years. We will then have gotten over this shell shock from the war, and we can in that time provide more ample means for taking care of these little children. My friend from Knox (Gale) says we can trust the legislature in regard to this provision of this minority report. Why, if that is true, the argument of my friend proves too much. Then why not take out the other provisions of the Constitution and leave it all to the legislature? The good people of the United States and every American State have hesitated and refused to entrust that great question to the whim of the legislative body. Now, as I say, I speak not as a member of any church, because I belong to no church, I am speaking for the benefit and in behalf of all the churches. The great English historian Paine has said "that to the ignorant all religions are equally false, to the philosopher all are equally true, to the statesman all are equally useful." The statesman and legislator has nothing to do with the truth or falsity of religion. His duty is to make law for all to be on an equality, so every man will have a chance, and then learn through the experience of the ages that when the State interferes with a man's conscience and his religion you always make it worse. Let every church stand equal under the protecting shield of our Constitution with every other church, and then may the best man win. (Applause.)

Mr. CORCORAN (Cook). I move the committee recess, report progress and ask leave to sit again.

(President Woodward presiding.)

Mr. BRANDON (Kane). Your Committee on Education reports progress and asks leave to sit again.

(Report adopted.)

Mr. HAMILL (Cook). I move that the Convention do now recess until four o'clock this afternoon.

(Motion prevailed.)

Whereupon a recess was taken by the Convention to Thursday, May 6, A. D. 1920, four o'clock p. m.

4:00 O'CLOCK P. M.

The Convention met pursuant to recess.

The President in the chair.

THE PRESIDENT. When the Convention took a recess at noon it was continuing the hearing of the report of the Committee on Education, and the Convention is now ready to resolve itself into the Committee of the Whole on a further hearing of that report. The Chair will designate Delegate Brandon of Kane to act as chairman of the Committee of the Whole.

(Chairman Brandon presiding.)

CHAIRMAN BRANDON. The question is upon the motion of the gentleman from Champaign, Mr. Dunlap, to substitute the minority report twice amended by unanimous consent for section 4 of Proposal 359. Are you ready for the question?

Mr. HAMILL (Cook). I move that the substitute be amended to read as follows: "Neither the General Assembly nor any county, city, town, township, school district, or any public corporation shall ever make any appropriation or pay from any public fund whatsoever anything to any school, academy, seminary, college, university or other literary or scientific institution controlled by any church or sectarian denomination whatsoever, except for the purchase of lots or property."

It is not my idea, Mr. Chairman, and gentlemen of the committee, that payments to churches or for sectarian purposes should be permitted. It is my idea that this section is proposed to be included in an article on education, and it should confine itself to regulation of educational institutions. Section 3 of the Bill of Rights in the present Constitution provides "that no person

shall be required to attend or support any ministry or place of worship against his consent." That probably will be sufficient to forbid appropriations or grants to any church or sectarian institutions. If it is not, the Bill of Rights is the proper place to incorporate such a prohibition. If not in the Bill of Rights, then in the legislative article. My idea is to confine this article to educational institutions. I think it will simplify the discussion if we did so. The principal purpose as I understand this morning of the minority report and of the gentlemen who support it was to make sure that hereafter there could be no appropriation to schools in competition with the public school system, and it seems to me this might possibly accomplish all in the minds of the gentlemen who advocate the minority report and avoid some of the objections which some of us thought we saw to it.

Mr. DUNLAP (Champaign). Mr. Chairman, I quite agree with the gentleman, the delegate from Cook, (Hamill) that possibly the place for the prohibition against anything being paid to any church, or for any sectarian purpose, should go into the Bill of Rights, but we are discussing this question in its broad sense here of the divorcement of church and State, and we might just as well settle it here as at some other time. If the Committee on Phraseology and Style think it advisable, after this Convention has decided on their decision of paying money to any church or for any sectarian purpose, if we decide that way the Committee on Phraseology and Style can incorporate it in the other section of the Constitution, and we are discussing this question, and if we do not settle it by some motion, when we are busy in the throes of getting through with this Convention business we might overlook something of that kind, but if we pass upon it at once it would be up to that committee to arrange it in such place in the Constitution as it properly belongs, and I think it would be a mistake to strike it out for that reason, if for no other, and I am opposed to the amendment for that reason.

Mr. MORRIS (Cook). The line of distinction between the majority and minority report, as I see it, is perfectly plain and clear, and I am stepping aside for a moment to say that one of the learned delegates this morning suggested that education was no part of the governmental functions, except as it had been so initiated by these United States. As I recall, about one thousand years before that ancient character called Romulus and his Robber Band built the mud walls around Rome, the Egyptians had inaugurated a system of education under the control of the government, and I just make that suggestion because it occurs to me that the statement was about as erroneous as the latter suggestion, that the question was whether this government should go in partnership with some church or sectarian institution. I do not think that question is presented. It is simply this government shall be permitted to buy now and then something from the various institutions that it can cheaper and better than from any other source. In the minority report we would be prohibited from paying any money to any church or sectarian society, no matter what we got in return for it. If a majority of the delegates to this Convention think that ought to be the policy of the State, then there is no question but what they ought to support the minority report, but if we are to be permitted to even buy of any church or any society something we feel we need for the wards of the State, some thing we can get cheaper and better than we ourselves at this time can furnish, then they ought to vote against it and in favor of the majority report.

As I see it, there is no question of union of church and State here at all. It is simply a question of whether we shall be permitted as the State, or any integral part thereof, to go into the community and buy some thing that even a church or sectarian school may possess that we have not, and therefore in its present position I think I shall cast my vote against the minority report and in favor of the majority report.

Mr. BARR (Will). I appreciate the fact that this question has been very thoroughly discussed by the delegates speaking on each side of the controverted question.

First, I want to say in regard to the explanation with reference to decision of the Supreme Court that was given this morning that I thought

conveyed in reply to that question, not the impression that the decision of the Supreme Court, in construing the Constitution of 1870 might not be held, if this section were adopted as it is presented by the majority report as being the construction that would be applied to that section, but rather that it was not the affirmative intention of the committee to affirm that particular decision.

We appreciate that no doubt the law is that a construction of a provision of a Constitution that is written into a new Constitution follows the particular section into the new Constitution. Let me say in the beginning your committee did not have in mind, nor has it in mind now, the idea that its report on that account should receive any unusual consideration, or be given any unusual weight by the fact that the committee had made it as its report. I do wish to say, however, that the matters that have been presented today were presented before the committee, not as ably in many respects, nor as forcibly nor as eloquently as they were presented today, but nevertheless they were presented, and against the best presentation that your committee was capable of giving them in its committee deliberations. I desire further to say I have sat here in this debate admiring the eloquence, and following as best I could the logic of the arguments presented in favor of the minority report, or rather against the minority report, and I have been forced to the conclusion that the conclusion arrived at by those arguing in support of the minority report was correct, if their premise had been correct, but according to my view of the matter they started out on a false premise and consequently arrived at the wrong conclusion. I do not believe there is anything in this report, or this minority report that should stir up any considerable amount of feeling. It is a matter, I think, we should look after, using our grey matter in so far as we may be able to use it, but possibly not resorting too much to what possibly may be approaching prejudice. I hope in arriving at our conclusion as to what shall be written into the Constitution in this section that our conclusion will be the result of thoughtful consideration and that we will not be influenced even the slightest by anything else.

Of course, it is a very easy matter to say that a certain thing tends toward the union of church and State, and then go off and leave it, and argue why there should not be a union of church and State. There is not anybody in this Convention, I think, that in any way desires anything to be done that tends toward bringing about of that unfortunate condition. We do not want any union of church and State. We do not want anything in this country that approaches that situation, and I have not been able in the arguments presented here, and I have listened to them with great care and followed them as well as I might, to find anything in the facts presented that indicated to me that there was that danger, and I may say I am not looking at it from a prejudiced point of view, I hope. My natural position would not incline me to be prejudiced or influenced in that direction.

I do not believe that the supervisor of Will county, Joliet township, sending a dependent boy to a home that is operated by a particular church or by a particular society tends toward the union of church and State. My idea of the union which we must prevent of church and State is that it will enable the church to exercise important influence on the control of the government of the State. I see nothing in what has been presented here as being the fact, nor am I able to follow out anything that has been suggested that might follow what has been heretofore done or what might be done that would tend in that direction. If that is likely to happen, then we should not write the Constitution again in such manner as to permit that to continue. I do not believe that we should allow ourselves to be entirely influenced by conditions in writing constitutional matters. I think we should appreciate the fact that we are here for the purpose of drafting a Constitution, a limitation on the power of the legislature and that perhaps we should allow the fact that the result of such limitation may be a very serious injury to twelve thousand children to influence us in following out our views on that principle, but I do think we ought to view the entire situation and decide what the Constitution should be in view of the facts and be sure that we do not warp our judgment in following out an indicated

principle to the detriment of a great many of the children and dependent persons of this State in order to follow a principle unless we are sure that is necessary.

The present Constitution, or section 4 in the report, which is section 3 in the old Constitution, is divided into two distinct parts. In the first part it provides, "Neither the General Assembly nor any county, city, town, township, school district or other public corporation, shall ever make any appropriation or pay from any public fund whatever, anything in aid of any church or sectarian purpose or to help support or sustain any school, academy, seminary, college, university or other literary or scientific institution, controlled by any church or sectarian denomination whatever." That provision is to the effect that no money be paid in aid of any institution, and the construction as has been suggested by the Supreme Court is that the payment of money for the keeping of children in sectarian institutions at a less expense than the State keeping them is not contributing money in aid of these institutions. The second limitation in this section provides, "nor shall any grant or donation of land, money, or other personal property ever be made by the State, or any such public corporation, to any church or for any sectarian purposes."

The second limitation, to my mind, is intended to prevent the taxing bodies of the State from giving and granting to any sectarian institution any property or funds of the State, and the first part is intended to provide that it may not pay anything in aid of these institutions, and I think that our Supreme Court has laid down the correct principle, that if the thing that the municipal body is doing is simply buying something from the institution for which it pays the same as it would pay any other person or any private corporation, that that is not contributing money in aid of the institution. I think we ought to carefully consider the effect of the amendment on the sub-committee's report.

To me the doing of the thing that is here condemned has no tendency now toward a union of church and State, and I think we should disregard that. If it is a question, as suggested by one of the speakers this morning, of these institutions getting their hands into the public treasury and extracting great quantities of money, in other words, if it is a question of saving money for the State and not a question of the principle of encouraging union of the church and State, then it is my view that provision already in the minority report ought not to be adopted, because it appears that the expense that would be necessary, and I think we can all appreciate the fact that in so far as the matter of money is concerned it would cost the State more to provide for dependent children in the State's homes, or such way as the State might provide, than it does in the institutions controlled by the various denominations.

I think we may hesitate for a moment in saying that we must follow out this principle without regard to the consequences. If we are sure that there is a danger, real danger of the influence of these church institutions, or a church institution controlling the various municipalities of the State, then of course we should stop it, but if there is not a very serious danger for the State it seems to me that we ought not or should not step in and declare in the adoption of this minority report a situation, which in my mind is going to cause very serious injury and very great suffering. As has been suggested by some of the other speakers, in my mind there is no question at all that whatever the State may make, whatever provision it may make, that it will never be able to make the kind of provision and furnish to the unfortunate children of this State, especially in our great City of Chicago, the kind of care that those children are able to obtain in the institutions which now are caring for them, and I think that is a matter we should take into consideration in determining whether or not this principle is involved, because if it is a tendency toward the violation of the principle that the church and State should be kept separate, then whatever the results are, naturally we should follow out that principle.

I do not believe there is anything that is more likely to receive the attention of the legislative body of this State than a violation of that prin-

ciple of the church encroaching upon the powers of the State. We are not going to adjourn here as a Constitutional Convention and go home and leave the State absolutely without any legislative body. We leave the legislature here with the power to make laws, and as has been suggested by delegates yesterday on other sections of this Constitution, we must expect that the legislature will meet these changed conditions as they arise and provide the necessary legislation to take care of it.

Of course, there is no question in the world but that the legislature has full power to so modify and change the present legislative act that provides for the juvenile court to assign these children to institutions so as to prevent the abuse, if such abuse occurs, and there has been no delegate who has addressed this convention yet who had pointed out there has been any abuse that has occurred so far in the operation of this court and this law which has been in operation for a period of thirty years, and it seems to me unless we are sure that it is necessary to protect the State against a violation of this principle of the union of church and State, that we should not draft a provision of this Constitution that changes without providing any remedy, that throws out of the homes of these institutions all of the children and dependent persons of this State. Some one has said if the State cuts off the appropriations for these institutions that they will take care of these children anyhow. I am wondering if it is the duty of the State to take care of these dependent children, if the State refuses to do it and if the sectarian institutions do perform that service which is the duty of the State, whether there is any less a partnership on the part of the State with the institution in accepting the service of the institution in performing the services that the State should perform without paying any part of the expense of such service, if there would not be as much partnership as the State paying so much per month per person for the support of these children.

I would like for a moment if you would refer to the minority report. We have been discussing a good deal the majority report and its consideration. I would like to have you look a moment at the minority report. The minority report provides, "Neither the General Assembly nor any county, city, town, township, school district or other public corporation shall ever make any appropriation or pay from any public fund whatever, anything to any church or for any sectarian purpose, or to any school, academy, seminary, college, university or other literary or scientific institution controlled by any church or sectarian denomination whatever, otherwise than through the power of eminent domain, nor shall any grant or donation of land, money or other personal property ever be made by the State, or any public corporation to any church or for any sectarian purpose." For sectarian purpose is not objectionable, but isn't that limitation, the provision that no public moneys can ever be paid to any church a very sweeping limitation? To any church or for any sectarian purpose or to any school, shall never pay any money to any school, any academy, any seminary, any college or university or other literary or scientific institution controlled by any church or sectarian denomination whatever, otherwise than through the power of eminent domain. I never thought there was so much danger in dealing with church institutions or institutions controlled by churches that they should be outlawed so that they could not be dealt with by municipalities or counties as an individual. It seems to me that it is a tremendous reflection on all the churches of the State and institutions of that sort to provide that no town or county could buy any property or rent a room, or do any business whatsoever with them except through the power of eminent domain.

Now, gentlemen of the Convention, perhaps I am wrong, in the opinion of the majority of the Convention, I am wrong, I am inclined to think, but I do wish to say this—that in my opinion the operation of this minority report if it is enforced, which of course it must be, will result in a very urgent demand from many parts of the State for a repeal of this provision of the Constitution very shortly after it goes into effect, for the reason that the people in the various sections of the State will find that any such rigid

limitation upon the right of the towns and counties to deal with these institutions to be almost unbearable.

Now, the situation occurs in many counties like mine, we have not enough people in our county that are dependent to provide a home. I appreciate the statement that the principle is involved and it must be modified to fit any facts. My view is that the principle is not so thoroughly involved as may have been contended for, but in the counties throughout the State where we have a few dependent children from time to time—for instance, the supervisor of our township finds a family where the father has been killed in the steel plant and where the mother is able to take care of part of the children; perhaps there are six in the family, and the boys are 12, 14, and 11, and there are two or three smaller children, and the supervisor finds that by sending the three smaller children to the home that the mother and the older boys can live and keep the family together; so the children are sent to the homes; we have a couple of homes, both of which are church institutions, and the supervisor of one of them is permitted to provide for their support, and the family is kept together; the children are there in the home and when the mother wants to visit the children she can do so, and a little later on one of the children is taken out of the home and ultimately the family is united again.

Of course, if that is a violation of the union of church and State and must for that reason be not permitted, then of course these children must be picked up and sent to some institution centrally located where they can handle large numbers of them, or sent out into some separate homes where they may be provided for in that way; and of course if it is true that by supporting the children in an institution which belongs to a church brings about a partnership between the county and the church institution, it would not be wise to put them into a family, because if the supervisor did that he would be establishing a partnership between the township and the family in which he puts them. Of course, that is only a little incident that occurs in one community and if repeated over and over again, and it does seem to me, gentlemen of the Convention, that unless we are thoroughly satisfied, thoroughly convinced and assured that this present Constitution, or this present section of the Constitution as construed by the Supreme Court is in violation of the principle enunciated and is therefore likely to seriously endanger the State—I won't say seriously endanger the State—unless it is in violation of the principles, then it seems to me we should not write into this Constitution a limitation that will bring about in my judgment the suffering that this limitation will surely cause, and after listening to the debate and giving this matter my most careful thought and consideration and believing there is no violation of that provision and that the provision as now written in the Constitution by the majority report should prevail, I believe that the minority report should not be adopted.

VOICES. Question, question.

Mr. KERRICK (McLean). I would like to ask the delegate from Will a question: What of authority, what control is retained by the State over the dependent children after they are given into the charge of these institutions?

Mr. BARR (Will). I would rather one of the delegates more familiar with the operation of this matter reply. Judge Cutting knows about that better than I do. Perhaps he may be willing to answer.

Mr. KERRICK (McLean). For my part I would be very glad to be informed fully.

Mr. CUTTING (Cook). The juvenile court retains absolute control of the children at all times and can require them to be brought before it at any time, and if there is any reason to re-distribute the children from one institution to another, or family, or any other place, the court can do that. The jurisdiction over the child is complete.

Mr. CARLSTROM (Mercer). Isn't it true that the State Board of Charities visits these institutions and sends out annual reports of all the institutions to which they can commit children?

Mr. CUTTING (Cook). I do not know that.

Mr. CARLSTROM (Mercer). I understand that to be true.

Mr. MICHAELSON (Cook). I have listened, Mr. Chairman, with a great deal of interest to the discussion on this question, and as has been suggested by a number of speakers it is a big question. The question of the separation of church and State has left its trail of blood all through the history of the human race, and it is here with us today, possibly not quite as strong as it has been in years gone by, but it is still here, and this body of men has an opportunity, so far as the State of Illinois is concerned, to do something toward the settlement of that question. Far be it from me to go further into the question from a legal standpoint, as it has been so well discussed here. Some one asked as to whether there were abuses connected with this system. You who are familiar with the procedure of the courts, and these institutions particularly, know that there have been abuses connected with it. You well know that a good many so-called industrial schools and homes are run as a business proposition, and that every dependent child sent to some of these institutions become an asset the moment that child enters the door.

It is a matter of record in all counties, and particularly in Cook, that from the time a child is six years old he becomes a paying investment to that institution. The little things which they can make through their handiwork have a commercial value and are bought by department stores, if you please, in the City of Chicago, and if you will investigate closely you will find in the courts that the representatives of some of these institutions are on the job practically bidding for the privilege of taking care of these dependents at so much per month. That is the situation in Cook county which has prevailed for many years, and this money which is paid over through governmental agency is a clear profit to the institution, because the child is self-supporting from the moment it enters the doors of that institution, and they are glad to get them and they are glad to train them and they are glad to give them the little bit of education that they do, which if you will look into the situation is very meager. The main thing is ability to do the thing which becomes of a commercial value to that institution. I say there are abuses connected with this system, and that is the only phase of the matter which I wanted to discuss. Now, gentlemen, in your down State counties I don't know whether you run up against that problem as in Cook county, but the business of taking care of dependent children in Cook county has gotten to be quite a business.

Now is the time to put a stop to those abuses. The great State of Illinois I think has been derelict in its duty; unfortunately we have dependent children; the minute they become dependent they are wards of the State, and we as citizens, high-minded responsible citizens who shoulder the responsibility of the support of those dependent children and who do for them as is done for all other children in our great State, they should be given a fair chance with every other child and not be discriminated against because of circumstances over which they have no control, and if that responsibility exists the State of Illinois should shoulder it, and if it is a matter of dollars and cents to a community, the community should shoulder that responsibility. It has been said by one of the delegates that a county cannot afford to erect an institution for the care of its dependent children. That is not so. We can afford anything in any community. During the late war the expenses amounted up tremendously in every community in every county in the State, but whenever they said, "we need so much money," the money was forthcoming, and in the City of Chicago today there is being taken from the citizens of that city \$300,000,000 a year in taxes, income taxes alone to bear that expense, and we say we cannot afford to erect an institution for the care of dependent children. I say it is an indictment and a sad indictment against any community when they admit that they cannot afford to take care in some measure of the dependent children of that community. If that responsibility exists it rests upon the shoulders of the State of Illinois, and we should meet it as men and we should not quibble over this question. Let us face the issue squarely, and

let us vote as our conscience dictates. This is a big question, and it is time we settled this question and gave notice to the people of the State of Illinois that we are here to deal fairly, openly and squarely upon every question that confronts us. The minority report will solve this question, and we will find that these abuses of which I speak in a few years will no longer exist, and the poor unfortunate child is not, because of circumstances, denied an even and fair chance, and an even and fair chance for his brothers and sisters, and it is up to this body to give it to him.

Mr. MICHAL (Cook). I regret that the occasion presents itself where I am forced to disagree with my distinguished friend from the same county (Michaelson).

I do not think there is a great deal of apprehension as to the vast amount of money that these institutions derive from any of the work, or handiwork that is turned into the market as the result of the labors of these children that are committed to these institutions.

At the outset I want to say and declare myself upon the proposition that if there was but a scintilla, however slight, of evidence of aggression, I would be the first to rise on this floor and cast my vote in favor of the minority report, but I think there is a great deal of exaggeration. I remember the distinguished gentleman from Cook county who brought this suit reported in the 280th Illinois, Supreme Court Reports, which has been very clearly analyzed. I remember distinctly some ten or twelve years ago that he got on a rampage and insisted that the juvenile court was the rottenest institution that was ever permitted to exist in a civilized community. I have a distinct recollection of the many charges that he made as to conditions that obtained in the homes where these children were, by order of this court committed, and when the searchlight of investigation was turned upon these institutions I saw him clinking along the corridors in the court house in Chicago and begging the issue, and he never had the nerve to substantiate the wild statements that he had made.

I want to say that the juvenile court of Chicago that has the charge of these children is presided over and has at all times been presided over by great men, great judges, great humanitarians, and they have adopted as the fundamental policy of committing a child to these institutions following the inherent right of the child to be placed in an institution where he might receive the religious education which he was entitled to receive from the bosom of his mother. (Applause.) I say to you gentlemen this is not a question of partnership of the State and church, but this is a question of humanitarianism. This is a question whether you are going to respect the rights of a mother and whether the religious training that she has had ought to be inculcated in her offspring. That is the fundamental vital principle with me. I care not for your hair-line decisions. I do not care anything about how you would construe the acts of this present Constitution, but I say the fundamental thing is the humanitarianism that underlies this, and that is to abide by the religion of the mother by committing her child and giving it that training that she would have given it. Gentlemen, I want to be recorded as supporting the majority report.

Mr. KERRICK (McLean). About how many institutions are there in Cook county?

Mr. MICHAL (Cook). I can recall the Jewish Training School for Girls, the House of the Good Shepherd, St. Mary's Training School, the Bohemian Orphans Home at Lyle, the Anderson Home, the St. Vincent's Foundling Association and Chicago Refuge. I suppose there are probably twenty.

Mr. KERRICK (McLean). Are these all sectarian institutions?

Mr. MICHAL (Cook). No, not all of them. I know that the House of the Good Shepherd is conducted by the Sisters of Mercy. The Chicago Refuge is non-sectarian.

Mr. KERRICK (McLean). How many are protestant and how many are Catholic in their administration?

Mr. MICHAL (Cook). I dare say that the Catholic institutions would not exceed six in number, and the rest are either Methodist, Episcopalian, Lutheran, and so forth. St. Charles is non-sectarian.

Mr. KERRICK (McLean). Do you know what proportion of the children committed to these institutions are committed because of the sort of religious training they would receive and how is that determined?

Mr. MICHAL (Cook). That is determined, as I gather it from discussions that I had with these officials in this manner: the history sheet is taken of the dependent or delinquent child, and then prior to that time of course the case is investigated by a probation officer appointed by the court and under the supervision of the court, and that officer makes inquiry as to the history of the family, the religion, and usually, I might say, as I have been told and I believe it, that the people because they were baptized in the Catholic faith are noted down as belonging to the Catholic church, and the Lutheran, as having at one time received some ministrations of the Lutheran church probably in early childhood are designated as Lutherans, and so on down the line.

Mr. KERRICK (McLean). There is a pretty large percentage of children who do not know that they ever had any parents, is there not?

Mr. MICHAL (Cook). I doubt that to be the fact, Judge.

Mr. KERRICK (McLean). Are they pretty generally able to obtain reliable information as to religious proclivities and the family history of the child?

Mr. MICHAL (Cook). Yes, because the personnel of these investigators or probation officers is of the very highest.

CHAIRMAN BRANDON. I wish to call the attention of the committee to a fact which I have been good about so far. It seems to me it would be well for the committee to stick to the question. The question is upon the motion of the gentleman from Cook, Mr. Hamill. The discussion has been largely along the relationship between the difference of the majority and minority reports. We should discuss the question of the substitute proposal of Mr. Hamill. I think that is the orderly way to get through. Are you ready on the question?

VOICES. Question, question, question.

Mr. MICHAELSON (Cook). I did intend to say a word or two regarding the amendment, I am sorry I overlooked it. I do not know just exactly what this amendment does to the minority report. It may nullify it entirely. There is only one copy in existence and that is the one in the hands of the clerk. We have had some time to study the majority and minority report, but the amendment I do not believe we are quite so clear on; it is an important question and rather an important amendment. For that reason, Mr. Chairman, I would be inclined to be against it, not having had the proper time for consideration as to its effect upon the minority report.

Mr. DUNLAP (Champaign). I just want to clear up the atmosphere in regard to this proposition that the gentleman from Cook has offered as a substitute. If I read that correctly it means absolutely to strike out the very questions we have been discussing for two days, and put the question upon another basis altogether. He would strike out here the matter of appropriating public funds for dependent children, and that is the question we have been discussing. Now, if we want to reach a decision upon the basic principles that are involved in these reports as originally presented we should vote down this proposition, this substitute, and having determined then which of these reports that we will adopt, if it is necessary to transfer the matter of contributions to churches, or for sectarian purposes, to another portion or another section of the Constitution, that can be readily done. I think we ought to arrive at a vote on what we have been discussing here and not sidetrack that proposition at this hour by a camouflage amendment. I do not mean by that there is an attempt being made to divert this thing intentionally, but the real effect of this is to make this section apply solely to schools, the very question you have been discussing, the appropriation of public funds for dependent children, and for that reason I think we should vote down this substitute.

Mr. RINAKER (Macoupin). Do you mean to say that if this amendment as proposed by Mr. Hamill shall be voted down, as you suggest, that

you would be perfectly willing to have the Committee on Phraseology and Style transfer it to the proper place?

Mr. DUNLAP (Champaign). I would after it had been decided, yes.

CHAIRMAN BRANDON. Are you ready for the question?

VOICES. Question, question.

(Motion lost.)

CHAIRMAN BRANDON. The proposal of the gentleman from Cook, Mr. Hamill, is lost. The question now is on the minority proposal of the gentleman from Champaign, Mr. Dunlap, as twice amended by unanimous consent.

Mr. CRUDEN (Cook). After all of the eloquent speeches that have been made I approach this subject with perhaps fear and trembling. I came here this morning with my mind perfectly open, and I am not decided yet. (Laughter.)

I am not very fearful of the conditions prevailing in our county. I rather had hopes that nothing that would inflame the minds of men might come before this Convention. During the campaign that was conducted for delegates and for the final Convention nothing was said about a proposition of this kind. The question of an up to date judiciary, short ballot, revenue article, equal suffrage, and so forth, was discussed, but things of this kind, never. I am of the opinion now that if I had thought then that such things as this would come before the Convention that I should have been going around in our part of the State asking people not to vote for any Constitutional Convention. I rather think it is a bad thing to get into.

It may be that I have had as much experience regarding juvenile affairs as any man in this Convention. In my connection with the Department of Police in the City of Chicago thirty years ago, I recollect a time when the boys and girls congregated with the hardened criminals in and around the jails and lockups in the different police stations. The agitation that brought about the juvenile court was brought about by the people objecting to that condition. Later on I was connected with the juvenile court as an officer for more than four years, looking after cases, being paid for that by the Illinois Humane Society of our city.

The investigations are now made by men and women and the cases referred to the court on their recommendations, and they are sent to places whose religion are the same as the parents.

Yesterday I voted against the sentence of section one which was presented by the committee, because I am not very much in favor of purely State institutional care. I had in mind this, that in connection with the dependent or delinquent children, that it is well to consider the period for which that delinquency or dependency shall remain. It has been my experience in connection with that problem that the dependency and the delinquency were shortened by their being sent to a sectarian institution. The parents are brought together through the influence of the church there and the home re-established and the children placed therein. Under that system the home was re-established and the children better cared for later on, the children became more obedient, and I think that is a very good system. I have made many inquiries since this thing has been under discussion, having received many letters and some telegrams on the question. I have had some communications with men of the Roman Catholic faith and with some Protestants, both ministers and laymen. They are divided on this question. I would like to make some further investigation before taking a final vote on this question. The whole thing seems to be aimed at the County of Cook, and there are many men here who seem to be entirely ignorant of this situation, and as this is a very important question, I think, Mr. Chairman and gentlemen, I think it may not be amiss if some inquiry was made before a vote was taken on this subject, and I recommend for your consideration that the vote be not taken today. I am sure I may be converted to either one of the propositions.

Mr. SHANAHAN (Cook). Mr. Chairman and Gentlemen of the Convention: I did not intend to participate in the debate on this proposition, and am quite loath to do so for certain reasons, but some of the speakers

have referred to me in regard to questions I asked yesterday pertaining to section 1, and I feel that something should be said in behalf of the wonderful charity, both Jew and gentile, of the City of Chicago that has rather been reflected upon by the gentlemen from Cook.

It seems rather impudent on my part to attempt to say anything regarding the juvenile court of Chicago, or the Juvenile Court Act of the State, when three distinguished jurists from Chicago and two distinguished jurists from down State who have sat at times in the county court have explained the working of the Juvenile Court Act. But after twenty-eight years of service in the General Assembly I can speak with some knowledge regarding these affairs and the care of children by the State and by the county.

Years ago we took from the homes men and women who were considered in those days crazy—not insane, crazy—and they were handcuffed and shackled and taken to the alms-house and then to the insane asylum, and they were shackled and they were handcuffed and they were tied to the beds, and that continued for years, and no public official, no General Assembly ever thought of bettering conditions until the good and splendid women of the country, charitably inclined, protested and plead and begged for these people who were not able to care for themselves, and gradually the conditions changed until people began to talk, not about crazy people but about people who were sick with insanity, and they were treated as human beings, so at some time they might come back again to the home, and you all know the improvements that have been made in the insane hospitals of this State. And later on through these good and splendid women further legislation was passed, compelling the counties to remove from the alms-houses to the insane hospitals of the State the insane of their community. And then years ago these splendid women, charitably inclined, started an education regarding the dependent and delinquent boy and girl, not only in Chicago but throughout the State, and the distinguished jurist, Judge McEwen, fully explained to you this morning how that education started in Chicago and how they voluntarily worked out a so-called juvenile court, and then through the agitation of these charitably inclined women they came to the General Assembly and had the Juvenile Court Act passed, and every man in this Convention today knows whether that has been a success or not, and it has been well stated on the floor of this Convention that the Juvenile Court Act of Illinois is known the world over, nothing to compare and certainly to surpass it, and my friends, how has it succeeded and what is its operations? I do not know how it is down in the State, but I do know in the County of Cook. Four or five splendid men have presided over that court and when a child is brought in there the history sheet is before the judge, giving as complete history as possible regarding the child, its parentage, its nationality, its religion, its age, its home conditions, and so forth, and before the court is the clerk of the court and a representative of the State's Attorney's office, the parole agents and the representatives of these charitable organizations, both Jew and gentile, both Catholic and non-Catholic, and the first question always asked by the court is, "What is the religion of the child," or the boy or the girl, and as a rule some of the parole agents or juvenile officers has the information at hand. If a child of the Jewish faith the court turns to the representative of the Jewish charities and asks what home they desire the child sent to, and that juvenile officer states where the child should go and the court as a rule sends the child to that home. If the child is of the Catholic faith the juvenile officer recommends to the court which of the Catholic homes the child shall be sent to. If the child is of the non-Catholic faith the juvenile officers recommend one of the half dozen homes to which the child shall be sent.

There is no conflict between either Jew or gentile, there is no conflict between Catholic and non-Catholic, the child is sent to a good home and there cared for, and as Judge Cutting has said to this Convention, that child is always under the jurisdiction of the juvenile court and can be taken from that home at any time, and if desired sent into a private home, or

discharged, or if the child has parents and the home is a proper place for it, it is sent back to its home.

Now, my friends, let me go further: years ago at the solicitation of the splendid women an act was passed providing that where the county or the State committed one of these children to one of these homes that the county or the State might pay ten dollars per month for the maintenance, board, education and clothing of the child. A few years ago Mrs. Solomon, representing the Jewish Charities of Chicago, came to the legislature and asked that the Act be amended providing that fifteen dollars per month might be paid by the county or the State to institutions caring for girls, and that Act passed the General Assembly with little opposition. At the last session of the General Assembly Mr. Edward B. Butler, president of the Glenwood School for Boys, one of the most noted schools in the world, asked that the Act be amended in order that the county or the State might pay fifteen dollars a month for the care of the boys. He stated that he was practically the main support of that great institution, and while they received many contributions from the public, yet it was a drain of some one hundred and fifty thousand dollars annually on him to maintain that great school, that he intended to maintain it no matter what it might cost, even though the State never paid him one dollar. Unfortunately the same element that had raised the opposition always injected the so-called religious issue into it and objected and the measure was never passed, so at the present time the county or the State can pay to these institutions for children committed by the courts ten dollars per month for boys and fifteen dollars per month for girls, one hundred and twenty dollars per year for boys and one hundred and eighty dollars per year for girls, and it costs at the present time to maintain a boy or girl in one of these institutions four hundred dollars per year. Now, my friends, I will not enter a discussion regarding separation of church and State, because no one in this country, no matter what his nationality may be, no matter what his religion may be, wants ever to see in this country any connection between the church and the State, and it will be a bad day for the country the day that it happens; but my friends, the gentleman from Pulaski said to you yesterday that some twenty odd thousand dependent and delinquent children were in the various schools and institutions of this State. Do you want this Constitutional Convention to decide that they are wards of the State and that the State should pay for and maintain these children, and that no money should be paid to any institution for their maintenance? Do you realize, my friends, what that means? That means that the State or its municipalities must provide institutions for the care and maintenance of these children. It means in the County of Cook, now overburdened and almost bankrupt because it cannot raise enough taxes to maintain the institutions it has at the present time would be compelled to spend millions of dollars to build institutions to care for these children and to pay taxes of millions of dollars annually to maintain these institutions. Again, the municipality and the county would say that they are the wards of the State and that the State should maintain and house these children, and it would mean that the State of Illinois would have to expend between fifteen and twenty millions of dollars to build institutions to care for these children, and to expend at least two millions of dollars annually to maintain these children. And now, my friends, say that the State of Illinois had twenty millions of dollars to build these institutions, how long would it take to build these institutions and have them ready to care for these children? The State of Illinois can build economically only so much each year, and I say to you from experience from building State institutions and making appropriations for the building and maintaining of them that it would take at least fifteen years to build the institutions and care for these children, and in the meantime what would become of these dependent and delinquent children? Some might say that the charitably inclined will continue to care for these children; that the sectarian institutions will continue and will be glad to care for the children. Yes, my friends, I believe they will, as far as they possibly can care for these children, but many charitably inclined people through-

out the State of Illinois who were subscribing liberally for the maintenance of these institutions will say, "well, the State has declared that these dependent children are wards of the State and that the State will take care of them, and I am taxed for their maintenance; there is no reason why I should continue subscribing liberally to these charities," and so, my friends, I want to call your attention to the condition that you leave these children in if you declare it the policy of the State to care for these children and then not provide time in which the State may in some way provide through private institutions that these children be cared for.

Now, I have heard this story for years and years in the General Assembly as to certain institutions, certain religious institutions being favored institutions and receiving money from the State, while other religious institutions received none. The delegate from McLean (Kerrick) asked the question as to how many institutions there were in the County of Cook and how many were Catholic and how many were non-Catholic. I think probably a fifty-fifty basis would be about correct. There are wonderful Jewish institutions in the County of Cook, there are wonderful Catholic institutions in the County of Cook, there are wonderful non-Catholic institutions in the County of Cook. There are any number of smaller institutions in the County of Cook, and these children that are sent to these institutions are sent there because they are of that religious faith, and they are sent there by the State and receive the training that their parents would give them if their parents were alive, or if their parents were in a financial situation to care for them, or if they were fit and proper people to care for those children; and so, my friends, in conclusion I say to you that whatever your action may be on this, do not leave it in such shape that the State has declared to do a certain thing and then is unable to carry out the proposition. If it is going to be the policy of this Convention to declare that the State shall never pay any money to any institution for the care of a dependent child, then provide a time in which the State shall have these institutions, that they shall be prepared to care for them in the institutions, when you will not send them to these private institutions, and I say that it cannot be done in the period of ten years.

I believe that the gentleman from Macoupin (Rinaker) is sincere in his amendment, but, gentlemen, it will be impossible for the State to build, equip and have ready institutions to care for that number of children in ten years' time.

CHAIRMAN BRANDON. It seems to me in justice to both the Committee on Education and the Committee of the Whole that I put into the record the figures upon which the Committee on Education based its consideration. Those figures furnished by the Department of Public Welfare are as follows: 12,175 children passed through the machinery of the approved institutions during the year 1919. Of that number something near 9,000 would be present on any given day. You understand that a child may be taken in in March and sent back to its parents in April. The total number handled was 12,175 in the eighty approved institutions of the State, with an average daily presence of about 9,000. \$2,400,000 was received from all sources by the eighty institutions in question. About half of these eighty institutions received no aid from any political division of the State whatever. The total amount paid by the State, mostly Cook county, and the forty institutions which received no aid at all was right at \$400,000 and was 24 per cent of the total amount of money received by the institutions which handled the 12,175 children. In other words, the cost of maintaining dependent children in the clearing houses approved by the State was paid, 76 per cent from the churches and public charity and from funds collected by the agencies and church and public charity, and 24 per cent was paid from the various political divisions of the State. So far I speak with positiveness on definite figures, and I am very sorry that no body took the time to have found out what proportion of the 12,000 children are in the forty institutions which received no aid at all. I do not want to say positively, but it is fair to say it is half and half. I think the larger institutions

got the money. I do think it would be safe to say that of the 9,000 daily inhabitants that three thousand of those are in institutions which never have received, and from the policy of the bodies which are behind them, never would take a penny of State aid in any form, and that therefore those would not be affected by the financial problem.

Mr. DUNLAP (Champaign). Are any of these three thousand children in such institutions receiving no aid from the municipality sent there by the juvenile court, any number of them? You say they are approved by the State.

CHAIRMAN BRANDON. I understand it has been the policy of the Lutheran Church to accept no financial aid from the State. I could not possibly say that there are no children committed by the juvenile court of Cook county for which no money is being paid. I did not go into that question.

In 1914 the cost of constructing institutions on a fair average per capita of fire proof construction was \$500 a bed. The price today is \$1,000 a bed. In other words, if it be true that six thousand children would have to be housed by the State, the State should be prepared to spend one thousand dollars a bed in order to have in average and fair sized units of fireproof, sanitary, well built houses, and that includes not only bed, but everything that goes in it; the maintenance of institutions in the State of Illinois varies so tremendously that I am ashamed to give you the figures, but the investigation of the committee showed that there are institutions on the approved list, approved by the Department of Public Welfare that spend as low as \$115 per annum per child in the gross expenditure of the institution for every purpose, including salaries, food, clothing, housing, overhead, education and everything else. For an institution which gives a child as good food as the average farmer's son and daughter gets and gives as good education as the best high school in Chicago gives, the price would be very close to \$750 per annum. It seems to be possible to sustain life at less than \$125 per year. Those facts may be depended upon by the Committee in its consideration of the question.

Mr. WHITMAN (Boone). I am aware that the time is well spent and the day is far spent, and I want to relieve any anxiety that you have by saying that I won't exceed three minutes in my talk. We have heard in relation to this matter some of the most eloquent speeches on both sides that it has been my privilege to listen to. I believe that we have arrived at the point where all of us know just about how we want to vote and we ought to vote upon this question here tonight. It has been my privilege to sit upon the Revenue Committee ever since I have been in this Convention, and we reported out a provision the same as it already is in the Constitution of our State, that no taxes shall be levied or collected upon churches, schools, church property and so forth used for the purpose of the church. It seems to me this is a direct gift from the State to the church, and is as strong an argument for the abolishment of that revenue article that can be brought forward, for the abolishment of our present system of affording aid to some schools where we get something in return. This is an out and out gift from the State to the church. If I believed for one moment that the door was open whereby church and State should ever get together, whereby the church should benefit from the State or the State from the church any thing more than by mutual understanding, I would certainly vote for the minority amendment, but in spite of all I have heard I have no fears of any such thing occurring, and I must record myself as for the majority article in this proposal.

As I said I am not going into the discussion of the merits of the case. They have been discussed more ably than it would be possible for me to discuss them. I might say, however, I do not find myself in accord with the gentleman from Cook who is still unable to state in what way he would vote upon this proposition and desires more time and to hear more speeches. I am somewhat reminded of the situation of the justice of the peace in the country district who was an illiterate man and who was elected to his office, and the very first case that ever appeared before him was a case where there

were two very eloquent lawyers on each side of the case. The attorney for the plaintiff made a very eloquent plea and the justice immediately said, "that is one of the most eloquent things I ever heard, I will decide for the plaintiff." The attorney for the defendant arose and insisted upon his rights, that he be given a chance to present his side of the case, and after some little argument the justice said "Proceed, but my mind is already made up, my judgment is for the plaintiff." It appeared that the attorney for the defendant was even more eloquent than the attorney for the plaintiff and he made one of the most high-falutin' speeches that was ever known in any court. The justice sat with bulging eyes and open mouth until this attorney was through, and then said "Don't that beat hell? Decision for the defendant." (Laughter.)

Gentlemen, we have heard all the speeches we want. I do not think that any of us will any longer be influenced by anything that is said upon this question, and it is my calm and honest judgment it is time to take a vote on this proposition. (Applause.)

CHAIRMAN BRANDON. Are you ready for the question?

VOICES. Question, question.

Mr. DIETZ (Rock Island). Despite the fact that the delegate who last spoke was satisfied that enough had been said, he was still unwilling to leave unsaid what he undertook to say.

I am willing, and I promise to make a short speech, and I will not take longer than a few minutes.

It is a contradiction in terms to say that the State is not aiding the church or sectarian institutions when it patronizes such institutions. Gentlemen of the Committee, that was exactly the holding of the Supreme Court of this State in the first opinion, in the best considered opinion, construing this section of the old Constitution—*County of Cook vs. Industrial School*, 125 Ill. 540. In that case the Court said:

"A school is aided by the patronage of its pupils even if they do pay for their tuition."

In the later case—*Dunn vs. Chicago Industrial School*, 280 Ill. 613—the holding is to the effect that the school is not aided by the patronage of its pupils, "where the payment is less than the actual cost." Assuming the latter view to be sound, and the later opinion to be correct, then we have just as deplorable a situation, that in which the church is aiding the State, putting the State under obligations to the church, but whether you view it in the one way or the other, whether the State is aiding the church or whether the church is aiding the State you are putting the two in inseparable co-partnership. What assurance have we that the Supreme Court will not hold, in construing the language of this provision contained in the present Constitution and in the Majority Report, or some other court may construe it the way it was formerly construed by that court? Let us be certain about it. Let us leave no doubt in this article. If we want it clarified, let us change it and make it clearly permissible for the State to aid sectarian institutions, but the danger point, my friends, lies in this. You have thrown down the bars, you will allow contributions to be made wherever and whenever any sectarian institution desires to barter with the State and to drive a bargain with the State. You can readily imagine that this does not apply under that construction merely to the care of dependent children, nor does it apply if you please only to cases where these children are sent to these institutions under an order of court. The experience could well be that if in any one of the townships of the State of Illinois some sectarian institution should offer to that township to conduct the public schools of that township for 99 per cent of the actual cost, under that sort of a bargain, under this provision in the Constitution so construed, the whole public school system, would be wiped out by the bargain, and then suppose you go on for twenty-five years and allow an accumulation of the obligations from the State to the church to reach that point which you can well imagine they would reach—they have reached a point now where the delegates to this Convention are trading principles for dollars—although that construction has been placed upon that provision only since the year 1917. If we are now in this position,

are already inseparably tied because the State cannot help itself for financial consideration, where will the State be twenty-five years from now unless it will be at the absolute mercy of these institutions? Let us decide this matter on principle. Let us separate, and keep separate, the church and the State.

Mr. KERRICK (McLean). I too, promise that my remarks will be short. Now, I want to say I believe I can approach this discussion absolutely free from bias of any kind. I do not boast of it, perhaps I ought to apologize, but I do not belong to any church and have not been a member of any church. I am happy to say that among the best friends I ever had in my life and have now are Catholics, Jews, Protestants and people of every creed and kind of religion. They are all alike. I absolutely recognize no difference in their religious views and religious faith. I can name those that are as close to me as my own flesh and blood, in friendship, love and in confidence. That has nothing to do with it at all. I know Protestant people who can hate and hate with vengeance and hellishness just as hard as any Catholic or any Jew. I know all about that, but I will tell you gentlemen if we can do nothing else but clear this thing up and prevent the creation of a wave of hatred and dissatisfaction and future litigation, all by adopting this minority report, we have done the best work that we have yet done in this Convention.

I was very much impressed with the argument and the presentation made by the honored member of Cook county, honored so many times as the speaker of the House of Representatives (Shanahan) in this State. It was convincing and full of logic, but I beg permission to differ with him on some points. It is my belief that in the period of ten years, while everything may not be adjusted and finished, while every institution may not be kept as precisely as we hope sometimes to have, I believe that the agencies of the State of Illinois will find no great difficulty within a period of ten years to be able to properly care for these children under its control and supervision in schools where the curriculum of the common school outside of such institutions can be provided, and that thing that I believe is best in the meantime can be done without any injustice, without any injury and these institutions caring for these unfortunate children and taking the job over by the State where it rightfully belongs. I shall vote for the minority report. (Applause.)

Mr. JOHNSON (Bureau). Believing that every one has had a fair opportunity to discuss this question and believing too that this delegation is now ready to vote, I move you, Mr. Chairman, that the debate be now closed.

(Motion carried.)

Mr. DUNLAP (Champaign). I just want to make one statement, and that is this: I have no pride in the words of this amendment, the thing we are voting upon here is the principle, and if it is thought that it can be put in more suitable language by the Committee on Phraseology and Style, I would have no objection to that.

Mr. TRAUTMANN (St. Clair). I would like to amend the report as made by the gentleman from Macoupin (Rinaker) making it fifteen years instead of ten; in case this proposal goes through, according to the speaker of the House, we will have enough time to readjust conditions.

CHAIRMAN BRANDON. If it is voted down, there will be no occasion for your amendment, and if it is voted up you will have a chance.

(Motion prevails.)

CHAIRMAN BRANDON. The motion of the gentleman from Champaign (Dunlap) prevails 41 to 27.

Mr. TRAUTMANN (St. Clair). I would like to make the motion now to change the wording from ten to 15 years.

Mr. DUNLAP (Champaign). I believe that ten years suggested is ample time. As I understand it there is only a small number of these children in these institutions that the State will be required to care for in any event, and I think the ten year limit is ample.

Mr. SIX (Pike). The fifteen year period would kill the proposal. Ten years is time enough for the State to determine a public policy. I take it

by the adoption of this proposal we shall insist that the State adopt that public policy, and it should do so in a period of not longer than ten years.

Mr. DUNLAP (Champaign). While I am not altogether convinced of the necessity of this amendment, yet I am willing to accede to the statements that have been made by the eloquent gentleman from Cook county, my friend Mr. Shanahan, and I will accept the amendment with the consent of the house.

CHAIRMAN BRANDON. Does the committee consent to the insertion of the word "fifteen" instead of the word "ten?"

(Unanimous consent given.)

Mr. DUNLAP (Champaign). I move that the section as amended become a part of the Constitution of 1920.

CHAIRMAN BRANDON. The question now is upon the motion of Delegate Dunlap from Champaign that the section be made a part of the Constitution of 1920.

(Carried 36 to 25.)

CHAIRMAN BRANDON. The motion is carried by a vote of 36 to 25. The question before the Committee of the Whole is on section 5 of the report of the Committee on Education. What is your pleasure?

Mr. CORCORAN (Cook). I move that section 5 be made a part of the Constitution of 1920.

CHAIRMAN BRANDON. Section 5 is left exactly as it is in the old Constitution, except your committee has struck out the word "teacher," on the theory there would be no great danger to the State if a teacher did receive some income or royalties on books or paraphernalia used in the school. It is moved by the gentleman from Cook county, Mr. Corcoran, that section 5 be made a part of the Constitution of 1920.

(Motion prevails.)

CHAIRMAN BRANDON. It is so ordered. The question now is on the adoption of the section 6 of the committee's report which is reported back exactly as it was in the Constitution of 1870.

Mr. HULL (Cook). I would like to offer an amendment that the word "election" in line 2 of section 6 be stricken out and the word "selection" be substituted in its place, so that the section will read, "there may be a county superintendent of schools in each county whose qualifications, powers, duties, compensations, and time and manner of selection, and term of office, shall be prescribed by law." Now, the county superintendents of schools are elected now. It seems to me they are a part of the general forces of education of the State, and that the same reasons which apply to the trustees of the State University might properly apply to the county superintendents in the educational article, and it is for this reason I offer the amendment.

Mr. HAMILL (Cook). I shall want to be heard upon this question. It is now nearly seven o'clock, and it does not seem to me that we can dispose of this question without taking more time than the delegates are disposed to give. I therefore move that the committee do now rise, report progress and ask leave to sit again.

(Motion prevailed.)

(President Woodward presiding.)

Mr. BRANDON (Kane). I wish to report that the Committee of the Whole has sat, reports progress and begs leave to sit again.

(Report adopted.)

Mr. BRENHOLT (Madison). I move we adjourn.

(Motion prevailed.)

Whereupon an adjournment was taken by the Convention until Tuesday, May 11, A. D. 1920, ten o'clock a. m.

TUESDAY, MAY 11, 1920.**10:00 o'Clock A. M.**

The Convention met pursuant to adjournment.

The President in the Chair.

Prayer by the Chaplain, the Reverend J. B. Matthews, Pastor of the First Methodist Episcopal Church, of Mound City.

THE PRESIDENT. The Journal of Wednesday, May 5, A. D. 1920, was placed on the desks of the delegates on last Thursday, and is now subject to correction. There being no corrections proposed, the Journal of Wednesday, May 5, 1920, will stand approved, and it is so ordered.

Whereupon the Convention proceeded upon the order of Special Orders of the day, reports of standing committees, select committees, introduction of proposals, first and second reading of proposals, motions and resolutions, unfinished business, general orders of the day.

THE PRESIDENT. Under general orders of the day, the report of the Committee on Education is still on the calendar for hearing. The Convention will now resolve itself into the Committee of the Whole for the purpose of a further hearing on the report of the Committee on Education, and for that purpose the Chair designates Delegate Brandon of Kane to act as chairman of the Committee of the Whole.

(Chairman Brandon presiding.)

CHAIRMAN BRANDON. The committee will be in order. The Secretary will read the minutes of the last sessions of the committee on this subject.

(Minutes read by the Secretary.)

CHAIRMAN BRANDON. The question is on the motion of the gentleman from Cook, Mr. Hull, that the word "selection" be inserted for the word "election" in the second line of section six of Proposal 359, and the Chair recognizes Delegate Hull of Cook county.

Mr. HULL (Cook). At the time we adjourned on last Thursday, the delegate from Cook county, Mr. Hamill, suggested that he thought the entire section be stricken out. For the purpose of permitting the issue to be made on the motion to that effect, which I understand he will make, I withdraw the motion which I made.

Mr. HAMILL (Cook). I move that section six be stricken out, and I desire to be heard upon that motion. Mr. Chairman and gentlemen of the Committee: I appeared before the Committee on Education and urged that section six be left out, pursuant to a proposal which I had offered. My reasons urged before that committee and now repeated before you are these: in the first place, you will observe that the section reads: "There may be a county superintendent of schools"—not there shall be, but there may be. I need not say to you, gentlemen of this committee, when you say "there may be a county superintendent of schools," you are saying nothing at all. Of course there may be, if the legislature so determines. If you mean there shall be, say it, but do not hide behind "may be," which means nothing. I dare say that if this question had ever been presented to the Supreme Court, the court might well have held that "may be" used in this connection means "shall be," because the courts will have argued the Constitutional Convention of 1870 when it said "may be" knew that "may be" literally interpreted means nothing, and therefore, it will have presumed to have meant "shall be," but if the court would so reason, let us obviate the necessity of that round-about arriving at the truth and say what we mean, "shall be."

What I say from now on will be directed to the question of whether it should be "shall be" or nothing. There are one hundred and two counties in this State ranging from seventy-two hundred in population to three million

two hundred thousand. The county is obviously an historical but not a logical unit of administration. It may be today that the county is a convenient unit of administration in the school system. I personally do not know whether it is or not, but I am very confident that it would be unwise for us to assume that even if it be today a convenient unit of administration, it will so continue for the next fifty or seventy-five years. It may be it is wise today that there should be a county superintendent of schools, and that superintendents should be elected. I do not know whether it is or not, but I am very confident that even it be convenient today that there should be a county superintendent of schools, and that that county superintendent should be an elective officer, I am very confident it is unwise for us to assume that that condition must necessarily continue for the next fifty to seventy-five years. What is so sacred in the office of county superintendent of schools that it is necessary that it be preserved in the Constitution? He is doubtless a most admirable and useful officer in the school system today, but it is perfectly feasible that the legislature should preserve his continuance if it is desirable and stop it if it is not desirable. I respectfully submit that the article as it stands serves no good and may eventually be a very embarrassing article.

Mr. HULL (Cook). I will say one word in support of the motion of Mr. Hamill (Cook). On returning to Chicago last week I was in conversation with a very well informed citizen of that city, and he told me the story of one county superintendent of schools in one of the smaller counties, and some of you may know who he is, whose pay was so poor owing to the smallness of the county and other considerations, probably, that he resigned his office of county superintendent of schools and went into the coal mines where he would be able to earn very much better pay, and I believe he said there are other instances not unlike it in the State.

When the State Superintendent of Public Instruction came before the Committee of the Whole on this educational article, you will remember that he admitted that in some instances at least it might be desirable that some of the counties be combined together in a single administrative unit. If you perpetuate section 6 of this article in the Constitution you will make it impossible to bring about any such condition. I believe that the motion made by the gentleman from Cook, Mr. Hamill, should be sustained.

Mr. CORCORAN (Cook). The Educational Committee went very deep in this matter, and heard from county superintendents of schools, teachers, and other people interested in it, and we came to the conclusion that as it had stood for fifty years it ought to still stand. The question of whether the county superintendent should be elected or appointed was taken up, and the committee was somewhat fearful that if there was an appointive system, the schools would get into the hands of somebody, whoever had the appointing of the county superintendents of schools. We took up the question of combining the different counties and making different units, and the majority of the committee thought that the county unit was a good one and we should have some unit representing the people. The elective county superintendent of schools is close to the people. If he does not do the proper thing, the people have the opportunity to correct it, whereas if appointed by the head of a department, whoever it may be, the people are not as close to him. We went into this matter very thoroughly, and it was the consensus of opinion of the Committee on Education that that article should stand.

Mr. CORLETT (Will). The motion first was to substitute the word "selection" for the word "election." Now, we have before us the motion to strike out section six. The argument in support of striking out the section is first, that although the system at present works satisfactorily, yet at some distant day it may not. And further it has been suggested by the Superintendent of Public Instruction that there might be at some time a unified system. I presume an explanation of that would mean that the head officer who is now the Superintendent of Public Instruction, would appoint from his office in Springfield one in each county in the State, having now substantially the same authority, powers and duties of the county superintendents of each county.

Now, gentlemen of the Convention, I find no great demand outside of the City of Chicago for what we might call the short ballot. As far as I have heard expression upon this the people desire to control their local government, and if there is any one thing above any other that the people insist upon controlling it is the school system. They pay the bills and I do not know any reason why they should not have the right to control it. For fifty years the present method of electing the county superintendent of schools has been satisfactory, as far as I know. I know of no reason why it will become unsatisfactory. The point has been made that a superintendent of schools is not adequately paid. I concede that. That is true of the teachers. It is true of the professors in our universities, and you can carry that argument into the whole school system, and if an office is to be abolished because it is not adequately paid that would abolish every position connected with our educational system, because there are no employees anywhere in the public service who are so much underpaid as those having to do with our educational system, and I submit, Mr. Chairman and gentlemen of the Convention, that the people of Illinois will not understand why this Convention has taken upon itself the proposal of striking out of the Constitution a provision which gives to each county the right to elect its superintendent of schools, who should superintend the schools for which the people themselves pay; therefore, I am against either the proposal to substitute the term "selection" for "election" or the pending motion to strike out and eliminate that section.

Mr. WALL (Pulaski). I understand from the delegate from Cook that he withdrew his amendment and there is nothing before the Convention except the motion to strike. I will admit in the abstract that the county is only a unit historically, but in the concrete, practically, in the actual conditions, it is a unit of government and has been so recognized ever since the first Constitution of the State. Now, the office of county superintendent of schools is the closest office to the people of any of the county offices. The superintendent of schools holds an annual institute. We have had a lady superintendent in our county for forty-four years, and it has been filled by two persons during this whole time and they have been very acceptable, both of them. They have kept up with the modern pace of educational progress, and I say to you delegates of this Convention that those two ladies who occupied this position for the last forty-four years have been closer to the people collectively and individually than all the other county officers combined. They hold these annual institutes in which teachers from all over the county and some from foreign countries come and participate in the program. They hold yearly and semi-yearly examinations, and they hold the great day of the year when the eighth grade graduates of the county come into the county seat to receive their diplomas, and we have a great number of parents who come from every school district of the county. It is the big day of the year. It is the children's holiday, it is a glorious day, it is an educational day, it is a day when the people of the county seat have some great educator from outside make an address, and everybody turns out, and the public get very close to the county superintendent of schools. If this motion to strike would be adopted on the possible theory that sometime in the future there might be a better method of conducting county education, I say to you it would be the greatest disappointment of anything that could happen in this Convention. It is true that their salaries are not adequate, at least in the sense of allowing them to lay up any money for a rainy day, but it is also true, Mr. Chairman, that the salaries of the other county officers are equally inadequate. I think our county superintendent of schools, and we have about eighteen thousand population in our county, receives twenty-four hundred dollars a year. That is more than the sheriff's salary, it is more than the county clerk's salary, it is more than the circuit clerk's salary, it is more than the county commissioner's salary, it is more than the county surveyor's salary, it is more than the county attorney's salary. It is the highest paid office in the county, and that pay is fixed by statute. It is true they cannot make as much as a man in a coal mine working six days a week, but that is true of all the offices of the county, regardless of what they are. I think

it would be a calamity to say that the people of the various counties of the State should be deprived of this privilege of electing the county superintendent of schools. There is no doubt, Mr. Chairman, but what the county superintendents of the State agree with what I am saying. While the gentleman from Cook was speaking upon his motion to strike, I just opened a letter from the county superintendent of schools from Union county, calling my especial attention to the fact that he had seen in the newspapers that a motion had been made to insert the word "selection" instead of "election," and he was very much opposed to it. Another letter from the county superintendent of my home county, and another from Alexander county, all in my district, and all were to the same purport and effect. I think, Mr. Chairman, it would be a calamity to do this. I think it would be depriving the people of that privilege which belongs to them to elect this splendid officer, who is continually mixing with them all the time and is better known than any other officer in the county. There is one other reason, Mr. Chairman, why this motion to strike should not prevail, and that is the uncertainty of what might occur in the future. That is worth consideration. We are not here to experiment. We are here to establish principles that have worked successfully. The school tax is nearly half the tax in the county where I live. The people cheerfully voted and they cheerfully acquiesce in the school system. They realize the fact as much as people of any other county in the State that the teachers should have higher wages, and that we should go onward and forward in the great progress of elementary education in the State, and they pay this tax, because they have control of the application of the tax. I can say that I trust and hope that the Convention will vote down the motion of the gentleman from Cook to strike.

Mr. HAMILL (Cook). Just a few words in reply to the argument made against this motion. One of the members of the Committee on Education reports that they have heard from the county superintendents of schools and they are opposed to it. Of course they are. You cannot find a single elective officer in the State who holds office to which he has been elected under the Constitution who is in favor of having that office taken out of the Constitution. That should be accepted, I take it, as axiomatic. My friend from Will county sets up a man of straw and knocks him over very successfully. He fears that if this office be taken out of the Constitution that the office will cease to exist. I need not repeat that I am not contemplating abolishing the office of the county superintendent of schools. I am suggesting that we cannot now foresee that for all times that office is going to be desirable. The legislature will sit every two years. It will know whether the conditions are such that that system should prevail. We have to leave a great many questions to the legislature, and it seems to me that the question of the unit of administration in the school system may well be left to the legislature, and my friend from Will county says he knows of no reason why a change should be made. That is not the question. In order to vote against this motion you must know of some reason of why some change should not be made in the future. I know of no reason why a change should be made in the system now, and I am not arguing for any. I am arguing against a rigidity which will prevent the change in the future, and the fact that my friend knows of no reason why a change should not be made instead of being an argument in favor of his position is to my mind an argument against it. He thinks the people will not understand why we are striking this out. I am not half so afraid of the stupidity of the people as he is. I believe they can be made to understand this Constitution is something that is going to organize a rigid form of government so far as it makes specific provision which cannot be changed except by constitutional amendment, and we are going to leave it to the people to say from year to year how they will manage their affairs.

My sympathy is with my learned friend from Pulaski county in his enjoyment of the enthusiasm of the ladies and children of his county. Of course they are enthusiastic over the graduating exercises, but there is no intention to deprive the ladies and children of Pulaski county of that joy. They will continue to have their schools ordered and regulated as the peo-

ple of the State want it. My motion precludes the possibility of the schools being managed as the people do not want them, and I respectfully insist upon my motion.

Mr. GRAY (Adams). Perhaps I have spent more years in the public school work in the State of Illinois than any member of this Convention, and I think I am in a position to speak advisedly on the subject of the duties of the county superintendent. In late years the duties of the county superintendent have become, in addition to the academic knowledge necessary, administrative duties have been added. I am associated in one capacity in that work now. I find it necessary that the county superintendent should be familiar entirely with the organization, the territory and the general work of the county in order to be effective in the administration of his various duties, and I am therefore opposed to leaving out article six of the Constitution, and am in favor of leaving the office elective as it is at present.

Mr. MILLS (Macon). Both of these gentlemen, the gentleman who made the proposition to amend this section by the word "selection" instead of "election" and the gentleman who made the motion to strike it out are both from the small County of Cook in population, and what do they suggest to take its place? What reply shall we carry back to our respective counties the reason that this office is abolished? If the section is stricken out it abolishes it, it wipes it out, puts us on the defensive, puts the new Constitution on the defensive. I admit that many of the county superintendents do not receive sufficient salary. I have had a little experience in county schools myself, both as a scholar and as a teacher. I am opposed to this motion. I think it will be a great mistake. We have nothing suggested in its place. What will we say to our constituents if this motion prevails and this section is stricken out? I agree with one of the gentlemen when he says that the word "may be" will be construed in all probability, if the Supreme Court is not changed in its complexion of its opinion, to read "shall." I think we might as well say "shall" now as any other time, if it means "shall" let us say "shall" so that the common people will understand it, and it will not have to be left to the Supreme Court to decide what it shall be. I do not believe in changing the Constitution of 1870 unless we can better it, and I believe this is not a betterment of the Constitution of 1870, and therefore, I am opposed to the motion.

VOICES. Question, question, question.

(Motion lost, 54 to 19.)

CHAIRMAN BRANDON. The question now reverts to the original motion, that section six be made a part of the Constitution of 1920. Are you ready for the question?

Mr. GILBERT (Jefferson). I move that the word "may" be substituted by the word "shall" in the first line.

(Motion lost.)

CHAIRMAN BRANDON. The question is on the adoption of the section as part of the Constitution.

VOICES. Question, question, question.

(Section adopted.)

CHAIRMAN BRANDON. The question now is upon the adoption of the entire section as amended as an article for the Constitution.

Mr. BARR (Will). I offer an amendment to the article amending Proposal 359 by inserting a section to be known as section two to read as follows: "The General Assembly shall make adequate provision for the maintenance and development of the University of Illinois." I move the adoption of section two as a part of the Constitution of Illinois.

Mr. CARLSTROM (Mercer). Who will construe the word "adequate?" I am for the proposal, but I am asking for information.

Mr. BARR (Will). I assume, Mr. Chairman and gentlemen, that the legislature will put its construction upon the word "adequate" to determine what in its opinion is an adequate provision.

Mr. CARLSTROM (Mercer). This is a constitutional mandate. I wondered how far that word "adequate" would go, and what the gentleman's idea was in using that term.

Mr. BARR (Will). My idea in using the term "adequate" was to carry the definition of adequate, which probably means in the nature of sufficient; I do not know how to give it any more definite definition than that. I do not think it is binding in the sense it is a close definition, and I do not think it would be wise to put in the provision any language that would be any more definite, perhaps, than the word used.

Mr. CARLSTROM (Mercer). Would it not be satisfactory to strike out the word "adequate" and say simply "that the legislature shall make provision for the maintenance and development of the University of Illinois?"

Mr. BARR (Will). I would rather leave the word "adequate" in. It carries with it what is intended, and that is that the legislature shall make sufficient provision for the University of Illinois, the necessary provision for the University of Illinois, and the word "provision" might indicate that the provision might be very small, and it occurs to me that the word "adequate" does not carry with it any greater provision than it is really the intention to convey the University should have. Perhaps there may be a number of words that would mean practically the same thing, but I do believe the provision that should be made is a sufficient provision, and that the Constitution should say so.

Mr. CARLSTROM (Mercer). It seems to me, if I get this correctly, that the General Assembly have made adequate provision in the last two years for the University.

Mr. BARR (Will). I think there is no question about that.

Mr. CARLSTROM (Mercer). I question whether we should issue a mandate to them to imply that they have not. I move as an amendment to the amendment to strike out the word "adequate" from the amendment.

Mr. HAMILL (Cook). I rise to a point of order. Section two has already been considered and disposed of. It is not now in order, as I understand it, to revive a discussion of section two, because section two has been passed. Again, a second point of order: Section two originally offered, the first two lines of it, were as I understand the pending amendment, identical with the pending amendment, not as it would be amended by the motion of the delegate from Mercer, but as offered by the delegate from Will. That, after debate, was stricken out. It is not in order now to make a motion substantially like that which has been passed upon. For two reasons, therefore, the motion of the gentleman from Will county is, in my judgment, out of order.

CHAIRMAN BRANDON. The Chair holds that inasmuch as the committee struck out section two of Proposal 359 that the only thing before the committee this morning is the proposal as it had been amended by the striking out of section two, and that the proposal of the gentleman from Will (Barr) to amend is not substantially the same as the matter that was stricken out. If, for example, there would be one member of this committee who voted for section two, as it was proposed in Proposal 359, because it had in it, for example the element of the elective board of trustees, but he would be for the proposal to recognize the University, we would certainly be doing an injustice to the member by preventing him from expressing his opinion. I therefore hold that the point of order is not well taken. The question now is upon the motion of the delegate from Mercer (Carlstrom) to strike the word "adequate" out of the amendment offered by the gentleman from Will (Mr. Barr). Are you ready for the question?

Mr. DEYOUNG (Cook). I simply want to call your attention to the distinction which you are apparently making if you adopt the motion made by the gentleman from Will (Barr). Under this proposal, in section two, you provide "the General Assembly shall provide a thorough and efficient system of free schools." You do not say that it shall provide adequately, you simply say that the General Assembly shall make provision, and if time permitted I think it would not be a difficult task to call attention to other provisions of the present Constitution in which you say "provision shall be made." Now I rise simply to inquire why, with reference to a particular institution, no matter how zealous we might be in its support, you find it necessary to make a particular distinction in favor of a single institution by using the word

"adequate." It seems to me that of all the elements of education and of all the needs of education, the most important and the one that ought to have adequate provision is the common school system. (Applause). Now, I am unable to observe, much as I want to see the University of Illinois supported generously, I fail to see, as framers of the Constitution, as those writing something into the fundamental law of the State, why we should in the same article make such a distinction as this, because, to say the General Assembly shall make adequate provision, is nothing more than to say that it shall provide adequately. You are saying something in behalf of the University of Illinois it seems to me it should be said for the system of education by which every child which is compelled by the law of the State to attend school, unless physically incapacitated. Those schools certainly ought to be supported as adequately as any institution of higher learning, and I think that the suggestion of higher learning, and I think that the suggestion made by the gentleman from Mercer (Carlstrom) is certainly consistent and proper. Let us say the General Assembly shall make provision for the maintenance and development of the State University, or if you are going to put it here, then put it in the more important place where every child between the school ages will get the benefit of it, and say that the public school system shall be adequately supported. I believe, gentlemen, the suggestion made by the gentleman from Mercer (Carlstrom) is correct. Then we will be consistent. Then we will not make a distinction in favor of what I believe most men will recognize is not so important as far as the general education is concerned, as the education in the common school system.

Mr. JOHNSON (Bureau). I wish to call attention to section one of this article: "The General Assembly shall provide a thorough and efficient system of free schools." Now, if this is not just as descriptive of the character of schools which must be provided for as the word "adequate," I fail to distinguish the difference. A thorough and efficient system of free schools—that of course is always open to construction by the General Assembly, and after that by the Supreme Court of the State as to whether or not they have succeeded in their provision for a thorough and efficient system of free schools. I think our discussion upon this subject presents a difference without a distinction. The word "adequate," of course, will first be determined by the General Assembly, and then if anyone takes exception to its construction there, their remedy is in the courts as to whether or not the word has been abused. If it too adequate, is it too much, have they gone too far, will be the question for solution and decision by the courts, and therefore by that process of reasoning, if it has any force in it, I must vote for this proposal.

Mr. GALE (Knox). We are proposing here to recognize one institution of the State in the State Constitution and to leave out other institutions, which are certainly as important to the State of Illinois as the one which we propose to recognize, as the one we propose to make unchangeable in this Constitution. Are we ready to say that the State University of Illinois over and above all other institutions of the State, shall be recognized in the State Constitution? That forever, or during the life of this Constitution, it shall be maintained as a University? A University, has, I think, a meaning. It means that all branches of education and all knowledge shall be taught therein, as far as possible, that there shall be professional education for all professions taught therein. Now, it is not a recognition of the agricultural school, which it seems to me has done more good for the State of Illinois than all the other branches of the State University put together. I have no hostility to the University of Illinois, but I do believe if we are making a basic law that matters of this kind should be left to the discretion of the legislature of the State of Illinois. It seems to me that that discretion in the past has been used to the limit that the dearest friend to the University could ask. They have never gone to the legislature in late years with any proper demand which has not been granted. Now, they are going to the legislature, and the legislature which has treated them generously, and say, we could not trust you, we did not believe you would make adequate provision for us unless it was put into the Constitution. Now, Mr. Chairman, provisions of this kind put into the Constitution cannot be enforced. You can-

not mandamus a legislative body. It seems to me that the friends of the university are in much better position to go to the legislature for what they want without this constitutional provision; relying on the treatment which they have got in the past, than to go before that body and say, "we could not trust you, we tried to put into the Constitution something which would compel you." It does not compel and cannot compel. Suppose you put in here "shall maintain and provide adequate provision," and the legislature chooses to give to the University of Illinois one hundred thousand dollars a year, instead of two million seven hundred thousand as they have been given. What court would issue its writ to compel the legislature to increase that appropriation? Manifestly, no court. You cannot enforce provisions of this kind, and therefore, Mr. Chairman, it seems to me that is a mistake, both from the reason for getting support for the University, and also because one particular institution should not be singled out in the basic law of the State; it is a mistake for both of these reasons to include such a provision or to include the word "adequate."

Mr. GREEN (Champaign). Of course the delegates to this Convention know that there is of necessity the element of selfishness with reference to this University of Illinois provision and recognition, so far as I am concerned. I did not speak upon the motion to expunge bodily from the article the section of which this committee reported the other day, because I thought it was much wiser, much more fortunate if the great State of Illinois, represented by all the delegates to this convention, could fully appreciate and give expression to the fact that this University is a part of the State's business and is in fact the State's business. Another reason I did not talk about it at that time was that this is one of the most embarrassing questions to me personally, anything connected with the maintenance and development of the University, for the reason that all the education I was ever able to get was outside of the University, and I cannot speak with the wisdom therefore that is manifested by the distinguished gentlemen who have spoken on both sides of this question. I have not had the good fortune to even matriculate at an institution of higher learning, and the great veneration I have for the great educational system of Illinois is from a personal standpoint confined to the great wisdom of our fathers in establishing the great common school system in this State, as one of the States of these United States. I have lived in the community where this University exists practically all my life, at least all my life since I ceased having the opportunity of getting an education in the public schools or universities, all my business life, and I have seen this institution under the leadership of the men of Illinois grow from small proportions to one of tremendous magnitude, and I have certain fundamental ideas with reference to the recognition of the State University that I feel I have a right to express as representing one of the common people of the State, who never enjoyed the blessings of the University, who never had an opportunity to reap the rich harvests that the thousands of young men of this State have reaped who have gone through that institution; but I have in a small way helped to support it.

Now, after all, with due respect to the criticism that was made to what I said the other day, I view this problem of education from a different angle than seems to be commonly accepted. I still say that a public school system is not a necessary part of government. We could have a government without any public school system, and in the ages gone by and in the countries before ours, there have been straggling efforts to engraft an educational system as a part of the great function of government, but it remained for us to perfect it and bring it to fruition and set an example to the rest of the world. And now, we are confronted with the proposition of how far shall we go in outlining in a fundamental way the policy of Illinois on education.

There is no force to the charge that we are doing something more for the University than we are for the common school system when we use the word "adequate," because I think that the language that is used in the first section of this article is the correct language and the kind of language that should be used, and has much more potency and carries with it much more than the

use of the simple word "adequate" before the word "provision" in this proposed section two.

We provide in the first section of this article on education,—and we are now laying out a broad basic law as to our stand on education—we say in the first section "the General Assembly shall provide a thorough and efficient system of free schools." A thorough system and an efficient system, and that means that the word "efficient" carries with it everything that the ingenuity of the electors and their representatives in Illinois can conceive within reason that it shall provide to enable the youth of the State to get a common school education, and the State of Illinois has gone further than that, and without any mandate or expression from the Constitution itself, the General Assembly in its wisdom has been making provision, more and more generous and splendid for the maintenance of this institution of higher learning.

After all, this proposition of maintaining the University is a part of the great school system of the State, is the crowning monument upon a policy of education which Illinois has set, and therefore with utter selfishness, but as a fair recognition of the fact that we should establish in formal declaration in the fundamental law of Illinois that it is a part of the policy of the State, that in addition to an efficient and thorough system of free public schools, the General Assembly of the State will make adequate provision for the maintenance and development of a great State University. The word "provision" without the word "adequate" might mean anything, but the General Assembly will put its discretionary judgment on what is an adequate provision, and by saying they shall make adequate provision, we invite the broad minds and higher views of the members of the legislature to see that this provision should be made, and should be made with a breadth of vision that, with the possibilities and the opportunities of improving the University of Illinois, the State will have the University it should have; therefore, we openly say to the legislature that the provision you make will be adequate provision as in your judgment and in your discretion, as the gentleman from Knox (Gale) has so well said, it will not be subject to court review, but it is simply an expression of the will of the people that you the legislature will not be miserly, but reasonable, and that you will by the word "adequate" understand you have a broader purpose than simply that you will recognize the institution except as one of the institutions of learning.

I hope none of us will be impelled to a conclusion, or have our views controlled by the political effect of what we put into the Constitution, or leave out of it, but if we find that there is a certain political significance in rendering this document popular or unpopular upon a certain line or policy, then may we not find what support we can for having inserted this into the Constitution, and advance the argument why it is a proper constitutional provision? Therefore, is it not proper to discuss the fact that these thousands, yea, tens of thousands of young women and men who have enjoyed the blessings of a university education at the expense of the taxpayers of Illinois, who are proud of their alma mater, and who want to see the future General Assemblies as now required by getting a vote of all the people of the State, further provide for the purpose of support and maintenance, may we not see the wisdom of inserting in the Constitution a recognition of their hopes, their high purpose, their demands, yes, and their influence for the adoption of the document which we will ultimately promulgate? That being true, what splendid arguments there are to support the wisdom of this committee in its effort to insert this in the Constitution. The University of Illinois has contributed and is contributing annually more to the State than it takes away from it. It is a wonderful economic institution. Here is a fundamental notion that I think the people of Illinois generally have placed on the constructive policies of the State; we have in Illinois a certain element of the population that always wants to put restraints and restrictions on the opportunities and activities of the ambitious citizen. Those people evidently believe we should write finis, and that civilization has brought the State of Illinois to its highest fruition, had developed the State of Illinois and all her resources generally to the point where all we have to do is to sit tight

and see that nobody runs away with any of these great institutions and wealth of construction, production, comfort and luxury.

I hold a contrary view. The people of Illinois in my humble judgment have only scratched the top of the possibilities of this wonderful commonwealth, and I believe that as our children look back and see what shall have been accomplished in the decade to follow our day and within the life of this Constitution, by the constructive policy of Illinois to develop the resources of the State, that they will find that we have untold millions of material wealth, untold opportunities for the inventive genius of the brain of the citizens of the State, industries beginning to flourish in places where people presumed nothing but corn and potatoes could grow, the great centers of population in places where no one dreamed would be produced industrial centers. The University of Illinois is the outstanding institution and arm of the State in which there is unselfishly devoted at a ridiculously low wage the most untiring and unselfish effort and the best brains of the State, traveling all in a single direction to develop our great resources both of mind and matter; and this great commonwealth would be short in its duty if we did not in this Constitutional Convention recognize that the next decade is apt to produce bigger men than we are, and we set up as a policy the adequate provision and maintenance of this institution of higher learning where research and investigation in all the arts and sciences shall go forward under the leadership of men, schooled and trained in these given directions and that the General Assembly, out of the generosity of a people that wants to help, will make adequate provision for the growth and development of this institution, such as will develop these material resources. Therefore, it is an economic question for the State of Illinois, and I feel as we see those buildings towering above the campus and we see the seven or eight thousand young men annually going and coming through the doors of that institution, going out onto the prairies and in the factories and through the arteries of commerce and into the development of the resources of the State, that it would be a matter of pride that we had done our full duty, and put the State on record as in sympathy with the development in an adequate way by future General Assemblies of this institution of higher learning. I say that as a common taxpayer, not as one who ever received a jot or tittle from the General Assemblies of this State in education of that character. I feel deeply on this question, and I am trying to look at it in an unselfish way. What is the State University? It is the seat of higher learning of the State of Illinois, and it does not seem to me it ought to be open to debate, that we not only rally to our support the tens of thousands of the best men and women in this State to support this Constitution, but every argument that actuates constructive men with vision for the future of the State who would go to the full length in supporting as a fundamental policy the recognition adequately of this great and splendid institution.

Before I sit down I want to say a word which I think is in harmony with what was so well expressed by the delegate from Pulaski (Wall). This problem of education springs from the people directly. It rests upon the people directly. It is supported directly with their taxes. It ought to be tied closely to the people. The place to tie it closely to the people is in the Constitution. The University of Illinois was created by special act of the legislature before the Constitution of 1870 was adopted. Let the people of Illinois feel that in the adoption of this Constitution they have themselves not created but set themselves on record as being everlastingly in favor of and willing to support this one of our great branches of the educational system. I hope that there will be no narrow view taken of the matter, but from Cairo to Chicago and from JoDaviess to Pulaski counties in this State there will be that unanimous sense of responsibility and hope for the future that we go on record as expressing the great hope and faith and policy, and the high purpose of the millions of people in Illinois and the millions who will live there while this Constitution is in force; that the power, you might say mechanically, physically, mentally, morally and in every way which they have set up in their great University, shall be promoted and developed, and say in no uncertain terms that it shall be done adequately. (Applause.)

Mr. CARLSTROM (Mercer). I want to say I enjoyed the brilliant address just made, but I want to observe this, that all he has said can be said of the great University of the City of Chicago, the Northwestern University, and it may be said of the smaller colleges in our State, the Wesleyan College at Bloomington, and the Knox College at Galesburg, which have turned out some of the greatest men in the State of Illinois. Like the gentleman from Champaign (Green) it has not been my privilege, or with my opportunities as a boy, to have the benefit of learning and training in the schools of this or any other State, except as I gathered it from practical experience in actual life, yet I, together with every other forward looking citizen, have the greatest regard for the school system, for upon it rests the hope and the future of this State, and I believe, Mr. Chairman and gentlemen of this Convention, that the thing that ought to be concerning us to day is the suggestion that the common school in the State of Illinois be amply provided for, so every man's child, the child of the working man, the man of the factory, the man of the mines, has by action of the public authorities of the State of Illinois, opportunity to at least qualify himself for citizenship to the extent of the opportunities afforded by the common school of Illinois, and when we, each of us, have received memorial after memorial from every county in the State asking us to give attention to the public schools of Illinois, we ought to be thinking of that in the discharge of our duties here, as the Superintendent of Public Instruction said, on September 19th, there would be one thousand rural schools in Illinois that would not open their doors because the funds were not available to provide teachers in those communities.

Here is where I stand on the educational question: I believe that every child, I care not how humble his parents might be, should be afforded this fundamental of education for the discharge of his duties as a citizen, and in order that he make the most of his opportunities. After that, then my friends, we can look to the necessities which are occasioned by the preparation in the advanced courses of the means of those preparing themselves so favorably situated as to avail themselves of that opportunity. The future of America will rest upon the common people, and we must recognize that, and I believe my friends, that with all the eloquence that the gentleman from Champaign (Green) has spoken, and I know sincerely it would be an impossibility for you or I or he living and situated as he is not to be moved by his proximity to the one particular institution of the State, and I believe this, when you look over the records of the appropriations of the General Assembly and see how it has grown from a small beginning to the point where the expenditure amounts to millions of dollars annually, we have no business to say in this Constitution that we believe you have not properly recognized the University of Illinois, and that we will say to you by mandate from the Constitution that from henceforth you shall provide adequately. I understand, my friends, and I am not opposed to the program, at every session of the legislature there has been a lobby here for the University and it has been taken care of. I am more concerned about the common schools, the education there, because I believe where one man or one child will be afforded the opportunity of what we might term higher education, nine children will be limited to using the advantages of the common schools, and it is that great mass of the people of which the man whom we revere in Illinois above all said, "God must have loved them because he made so many of them." The common people must be brought to the responsibility of citizenship, and we can do that only through the common schools, and I believe we ought not to make a suggestion of this character in the Constitution. Let us turn our attention to the common schools and not upon a single institution in the State of Illinois.

I believe the legislature is capable and willing to do all that is required for the University of Illinois. I believe when we say it should make provision for its maintenance we say all we ought to say, and I believe that they as representatives of the people of the State of Illinois, acting under the pressure of public sentiment in Illinois will do all that may be reasonably

asked of them, and I believe this word "adequate" should be stricken out and we should say they should make provision, and let us turn our attention to giving to the children, the average child, all the training and equipment that we possibly can, thereby laying a safe and secure foundation for the future of Illinois and the institutions of this country. I respectfully appeal to you, gentlemen, to strike out this word "adequate" and leave the matter where we have found ourselves so well treated in the past, and say to the people they shall make provision, and that will be a recognition of the institution, and that is all they say they want us to do, and I believe in leaving the General Assembly untrammelled as in the past. (Applause.)

Mr. BARR (Will). I am very sorry that the delegate from Mercer (Carlstrom) has thought it necessary to bring in as a comparison the question as to whether or not we should support the public schools of Illinois or support the University of Illinois. I do not believe there are any delegates in this Convention who have more consistently worked with the idea of presenting to this Constitutional Convention an educational article that would give impetus and potency to the support and development and provision for the common school system of Illinois than I have. Of course, we all understand and appreciate the fact that the common school system of the State is a thing that must not be neglected, but must be provided for to the utmost, and if it were a question of the resources and the ability of the State of Illinois to provide a common school system as provided in section one, a thorough and efficient system of free schools, if it were a question as to whether the State of Illinois were going to be able to make this provision or provide for the university, there is no question about how any of us would vote upon that proposition. We all want the common school system and common schools to be provided for, and the State of Illinois is well able to provide for the common school system of this State and to provide for the University of Illinois as well. I think we may be inclined to feel there is something about the University, that it is a sort of higher education place in the sense that it has no practical application. The University of Illinois, and I speak advisedly, having spent some time over there, not because I was particularly fortunate, but because I was able to work my way through the University, and I know the class of boys and girls largely who are benefitted and who receive the education that is given at the University of Illinois. It is the boys from the farm and moderate families of the State of Illinois who go in such large numbers to this democratic institution, which is the child of the State. Gentlemen of the Convention, I do not believe that this Convention should put itself upon record to cut off or to suggest that the University is not a mighty important element in the development and in the education of the boys and girls of this State. You go into the grammar schools and into the high schools, and you will find that the ambition of almost every boy and girl in the school is to go to college, and I am very glad to say that in the past two years the tendency toward going to the University of Illinois has become very popular among the boys and girls of this State. It has been suggested, why pick out the University of Illinois, there are two or three great universities in Chicago, and smaller colleges in different parts of the State. The University of Illinois is the child of the State of Illinois; it is the product of the people of the State of Illinois; it is operated and conducted in the interests and welfare of the people of the State of Illinois. It has been supported and built up and has become a part of the State; surely you are not going to go on record as separating and setting it off as a privately endowed or otherwise operated university or college. It has been suggested we are picking out this institution particularly. Why not put in the normal schools, as one delegate has suggested? The normal schools are a part of the common school system of the State whose primary purpose is to provide teachers for the schools, and they are handled as a part of the school system of the State. The University of Illinois is separate. It is doing a great work along the lines of education in the ordinary sense, and as the delegate from Champaign (Green) has suggested, along economic lines, and it has done

much for the welfare, for the material welfare of the State of Illinois, by far more than it has ever cost the State of Illinois in dollars and cents, if it is to be measured upon that basis.

It has been suggested that we strike out the word "adequate." The use of the language as it would remain, "the General Assembly shall make provision," would be something like if I wanted to direct someone with whom I left a child of mine: If I said I desired to make provision for the child, that would mean one thing, but if I said I wanted to make adequate provision for the child it would mean in the minds of everybody quite a different idea; it would carry with it the idea of sufficiency. Provide for the University of Illinois along adequate lines; make provision for the growth and development as the requirements demand, and it seems to me, Mr. Chairman, that this Constitutional Convention ought to give recognition to the University of Illinois and ought to suggest not as a criticism or inference that the legislature has not made provision, but as the suggestion of the people; this is not the Constitutional Convention that is speaking. It is the people of the State of Illinois, when this Constitution is adopted, saying to the members of this legislature, law-making bodies, that we desire that you should make suitable and adequate provision for this institution.

Mr. MILLER (Cook). Like the gentleman from Champaign (Green), who has spoken so eloquently for the University, I also was deprived of the benefits of the University of Illinois, and like him also, I am enthusiastic for the University. Personally I am against putting unnecessary things into the Constitution, except of course where they touch me more closely (laughter). Now, nobody can deny after what has been recited here that it is necessary to put anything into the Constitution about the University of Illinois except on sentimental grounds; of course the University does touch many of those in this Convention rather closely on sentimental grounds. I am quite willing to recognize the University in the Constitution and very glad to do it, but, Mr. Chairman and gentlemen, when it comes to putting in the word "adequately" or "splendidly"—if we want to consider that also—no one can deny that either of those terms, adverbs of whatever parts of speech they may be, is wholly unnecessary, for, according to the gentleman from Champaign, the legislature has therefore provided for the University not only adequately, but splendidly. Therefore, neither on sentimental grounds or the grounds of necessity or any other grounds, can it be necessary to put into the Constitution in this sentence either the word "adequately" or "splendidly," but if we were to use either of those words in this article I am among those who would rather see one or the other used in connection with the common school system, rather than in connection with the University, which takes care of the educational needs of so small a percentage as compared to those cared for by the common school system.

Mr. GREEN (Champaign). Do you see any objection to leaving out the first section also?

Mr. MILLER (Cook). If we were to speak of the necessity of putting it in, possibly not, but there too, on sentimental grounds I would want to see that go in, just the same as I would like to see the University.

Mr. GREEN (Champaign). The same argument applies to both.

Mr. MILLER (Cook). Hardly, the first one touches us more deeply.

Mr. GREEN (Champaign). You realize that there was no provision made in the charter for the future support of the institutions?

Mr. MILLER (Cook). I did not know that, but from what the gentleman from Champaign has recited, I take it there is no necessity for this Constitution to lay any inhibition or any duty upon the legislature adequately and splendidly to provide for that institution. I am very glad that that is a fact.

Mr. GREEN (Champaign). The point I make, having been chartered by the State, created by the State under special act of the General Assembly, entirely different from the common school system itself, it has found its way simply by constitutional provision. Isn't it in your judgment an argument why the Constitution ought especially to speak of that institution which our fathers created under special act of the General Assembly?

Mr. MILLER (Cook). I take it that we are both generally opposed to putting unnecessary matters in the Constitution, but on sentimental grounds I am for this.

Mr. WALL (Pulaski). There are two mandates to the legislature in sections one and two. Section one provides "the General Assembly shall provide a thorough and efficient system of free schools." Now, what is the difference between the words "shall provide a thorough and efficient system of free schools" and the words "the General Assembly shall make provision for a thorough and efficient system of free schools?" In other words, the word "provide" has the same meaning to my mind that the words "shall make provision for a thorough and efficient system of free schools, that is amendment No. 1. Now, take section two, "the General Assembly shall make adequate provision for the maintenance and development of the State University;" is there not a distinction in favor of the University against the common school system by this mandate? I have been run over by the eloquence of the gentleman from Will (Barr) and by the distinguished gentleman from Champaign (Green), and by the idea that we should vote as a sentimental proposition for section two, insofar as it recognizes this great institution of learning in the Constitution, but I am opposed, Mr. Chairman, to going any further than that; I am opposed to saying that we "shall make provision," simply using the word "provision," for a thorough and efficient system of free schools, and then in section two provide that we shall not only make provision for the University, but shall make adequate provision therefor. It is true that the legislature has the judging of the sums that may be from time to time appropriated for this purpose to this University. It is true they are to say what is and what is not adequate, but how do they do that? How does the legislature arrive at a conclusion as to what is adequate? They do it of course by the so-called lobby, or insistence of the managers and operators of the University. They come over here from time to time and tell the legislature what they want. Suppose they say we want ten million dollars; it will take that to adequately run the institution for the next five or six years. How do they make up their minds on that subject? I say that the influences that bring about the amount of appropriation comes from the institution itself, and when we use the word "adequate" we are putting the institution above and in a better position to secure appropriations of such an amount as they might see fit to ask than you do the common school system of the State in providing for a thorough and efficient system of free schools. I am for the section two insofar as it embraces and takes in and mentions specifically all the other schools in the State. This is a great institution of learning, but I am against the use of the word "adequate" in that section.

Mr. ELTING (McDonough). I heartily agree with all that has been said by the delegate from Mercer (Carlstrom) and I approve very heartily of what has been said by the delegate from Champaign (Green). I think they are both right. I do not think the State University is in any way antagonistic to the common schools. I think the State University is the great institution of this State, that finishes the education started in the common schools, and I want to give you a little practical information or example of what the great University is doing. There was a farmer in my county who sent his son to the University and he completed the course in that University. He came home, and his father to test him out turned over to him to work five acres of land he had on his farm, a piece of land that had not paid anything for years, and the boy made that five acres of land produce more than the best land his father had. After that his father came to my office to see me about buying eighty acres of land for that boy that was advertised for public sale, and I told him that that land would sell probably for three hundred dollars an acre. He thought that was an awful price to pay, but he went in and bought that eighty acres of land for his boy and paid three hundred and five dollars per acre for that land, and the boy has paid for the land and it is now worth at least six hundred dollars per acre, and it all happened simply because of what he learned at the University of

Illinois. I heartily approve of what the delegate from Mercer has said about our county schools. I think that is basic, and the fact we are supporting a great University does not mean we will not have sufficient funds to carry on our county schools. If you will read these two sections together as proposed, as suggested, "the General Assembly shall provide a thorough and efficient system of free schools"—there is no limitation on that, and then go on and read into the second section, "and provide adequate provision for the State University," it is in perfect harmony, and I for one am against striking out the word "adequate." I do not think it gives it any particular advantage, but it does not detract in the least from the other, and I am for it.

CHAIRMAN BRANDON. Are you ready for the question?

VOICES. Question, question.

CHAIRMAN BRANDON. The question is on the amendment of the gentleman from Mercer (Carlstrom) to strike out the word "adequate."

(Motion lost.)

CHAIRMAN BRANDON. The motion is lost by a vote of 37 to 33. The question now is upon the adoption of the amendment of the gentleman from Will, Mr. Barr.

Mr. SHAW (Cass). I offer an amendment, Mr. Chairman; amend by adding the following, "to be controlled by an elected board of trustees."

Mr. HAMILL (Cook). I rise to a point of order. That makes the proposal substantially as has been voted on, and the point of order I originally made, the second section was defeated on the express ground it was unnecessary to provide for and elect a board of trustees.

CHAIRMAN BRANDON. The Chair rules that the point of order is not well taken, for the reasons previously stated.

Mr. SHANAHAN (Cook). I am inclined to think that the point of order raised by the gentleman from Cook (Hamill) is correct, when it is simply a subterfuge offering these different amendments in order to get together and make a complete section two as voted upon by this committee at its last session. If this amendment is adopted another amendment could be offered by some other delegate incorporating four or five other words and that can be adopted, and then another delegate can present another amendment of four or five words, and in that way—

Mr. DUNLAP (Champaign). A point of order.

Mr. SHANAHAN (Cook). Oh, very well, I have nothing more to say.

Mr. SHAW (Cass). I offered this amendment for the reason I think it is highly important that the trustees of the University of Illinois should be elected.

Mr. DAVIS (Cook). I rise to a point of information. Before I state it, without going to the extent of appealing from the decision of the Chair, I just want to register at least my personal dissent from the ruling. Whither are we drifting, where are we going? Are we engaged in serious work, or horse-play? This Convention after hours and hours of debate has passed upon the substance of the amendments offered. I have never known of a deliberative body where action was taken on an entire section, where, without reconsidering the matter, permission was granted by the Chair to take up the same question in parts. I rise to this question of information. How far is this debate going to continue? What are we going to discuss now? Are we going to debate the ruling of the Chair, or are we going to debate procedure and parliamentary practice? Before I sit down I want to say to all those here who have been very friendly in their expressions of admiration for the accomplishments of the University, and I am one of those who favor the university, but I want to say to them that they are going a little too far, and they are hurting the cause of the University in the eyes of the people of the State of Illinois. The people will not stand for side-tracking other matters, and day after day go on here with a discussion of the extent to which the University of Illinois should be given preference to the other educational institutions of this great State. The point of information is, what is the limit of the debate going to be on the amendment offered by Senator Dunlap?

Mr. BARR (Will). I spoke the last day we were in session on the provision somewhat the same as the section amended would be. I told a number of the delegates that I would offer a section as an amendment when the committee met in Committee of the Whole again, as was offered by me this morning. I indicated at the time this matter was up for consideration that I was very strongly in favor of providing for the election of trustees of the University, and I want these gentlemen to understand that the section in the manner which I introduced it this morning would be urged for adoption. I believe it would be unfair and might subject me to the view of being unfair and attempting to deceive, for I want to indicate that I was favorable to the amending of this section in the manner in which it was sought to be amended. It puts me in the embarrassing position of appearing to be against the thing that I am really for, and as a matter of fair dealing and as a matter of open dealing with the delegates in this Convention, I do not feel that I can favor the amending of this section along the lines that has been suggested, for the reason that I indicated that I was desirous of having the amendment made that has already been voted upon.

CHAIRMAN BRANDON. The Chair would like to say in justification of itself, that I am not a party to any collusion of any character, seeking to go back over the work of the committee and reconsider. My understanding if anything of that nature is desired, the motion would be a motion to reconsider by some one who voted adversely in the other session, but the Chair is perfectly conscientious in his belief that it would be possible, and is very likely that there are gentlemen on this committee who would vote against the proposal as offered by the committee in section two, but would vote for the proposal by the gentleman from Will this morning as amended by the gentleman from Cass, and for that reason that the matter is in order. It is only a matter of judgment, and the Chair is certainly human. The parliamentary procedure would be either by appeal from the decision of the Chair, or to cover the point made by the gentleman from Cook, Mr. Shanahan. If it is felt we are overdoing the matter of debate, and I think we are, we are covering the ground twice, I think it is easy that the debate be cut off and we vote, but in fairness to all parties concerned, it being true that a question of this kind involves three or four questions, it is only just to those who vote in favor of the section that it be divided. If you don't want to debate, cut off the debate.

Mr. TAFF (Fulton). The proper procedure would have been for the delegates who did not want to vote for the entire section to ask for a division of the question, and if they allowed that opportunity to go by, can they now raise it by these amendments?

CHAIRMAN BRANDON. I do not think they can if it is the same question. The Chair has held it is a different question. If the Chair is wrong there is a proper method of correcting that.

Mr. TAFF (Fulton). Could a delegate at the time this section was under consideration have asked for a division of the question as to the election of trustees?

CHAIRMAN BRANDON. I imagine they might have done so, but that was not done.

Mr. DUNLAP (Champaign). Mr. Chairman, as the delegate from Cook, Mr. Davis, has referred to this as my amendment, I wish to make a statement here as a matter and question of personal privilege. I will say the other day when this matter was up for discussion that when I wished to speak upon this question upon the election of the members of the board of trustees I was peremptorily refused any concession under that line by one of the delegates from Cook, although I stated I had desired to speak on that question. When it comes to a question of gag rule, there are others trying to put through the gag rule.

Mr. SHANAHAN (Cook). Does the gentleman say I interfered with his statement? He is looking at me—I did not speak on that, if the gentleman is alluding to me.

Mr. DUNLAP (Champaign). I did not mean you. The gentleman from Cook, Mr. Sutherland, who made the motion. I did not have any idea of debating in any manner that would imply there was gag rule, but I did think upon this question of the election of the board of trustees, that the delegates should understand the reasons why the election of the board of trustees was desired, and then if they wished to vote it down, there could be no objection to it. I can see no reason why, if the delegates did not wish to incorporate the election of the trustees in this proposition, why, they can vote that down, but in justice to those who believe the election should be, rather than the appointment of the board of trustees, this amendment was made; it was to get a fair expression of opinion upon that subject, and I believe that the Chair is right. The third proposition does not appear before this Convention and is a matter of policy of the University itself, is the matter of the recognition of the university, the election or appointment of the board of trustees and the policy of the University. There are three different propositions, and I submit the Chair was right in his interpretation of the rules of order and procedure.

Mr. TRAUTMANN (St. Clair). I understand the Chair to rule this morning that the motion of the gentleman from Will (Barr) was in order because it was apparently different from section two.

Mr. DUNLAP (Champaign). Did not embody the same matter. It is still before us, and there is a motion still further amending it.

Mr. TRAUTMANN (St. Clair). According to this ruling, this could not be done as a whole, but I want to inquire whether or not it is the ruling of the Chair that it can be done by piece-meal, taking each sentence at a time and putting it in.

CHAIRMAN BRANDON. The Chair has not ruled that it can be put in by piece-meal. There is no proposition of that kind, but to offer the question of whether the State University shall be recognized, is one proposition, and there is now a proposition of the gentleman from Cass (Shaw) to add another element, and I will admit those two elements are two-thirds of the question that was offered before, but the Chair says two-thirds of something is not the same as all of something.

Mr. TRAUTMANN (St. Clair). If these two-thirds are adopted, and then I offer the balance and it is adopted, what then?

CHAIRMAN BRANDON. The Chair would immediately rule the balance out of order because then we would have three-thirds of something.

Mr. TRAUTMANN (St. Clair). Then your ruling is you can adopt two-thirds, but no larger proportion.

CHAIRMAN BRANDON. You can adopt something different. Let the Chair suggest that most of the debates for the last two or three hours have been covering previous ground, and I think if you would proceed to vote we could be on our way and dispose possibly of this matter to everybody's satisfaction.

Mr. SHANAHAN (Cook). The only purpose is, if you are going to open up this whole proposition we want to lay some facts before the Convention, but we would want time to do it, if you are going to open up this whole question.

CHAIRMAN BRANDON. That is up to the committee. The committee can close it at any time.

Mr. SHAW (Cass). When this matter was discussed I was absent, the only day I have been absent from the Convention. I did not realize it had been brought in the manner it had, and positively voted down on this issue. I think it is highly important, and that is the reason I offered it, but as there is so much opposition to it, especially from the delegates from Cook, I am willing to withdraw the amendment for the present. There will be another opportunity to present it.

CHAIRMAN BRANDON. You say you are willing, do you withdraw it?

Mr. SHAW (Cass). Yes, I will withdraw it.

CHAIRMAN BRANDON. The question is to amend the entire article by inserting section two.

Mr. CORCORAN (Cook). I think we are all out of order. I think there should have been a motion to reconsider before we take up this matter at all.

CHAIRMAN BRANDON. The Chair ruled it was not necessary unless it was the same subject matter that was voted down the other day.

Mr. WHITMAN (Boone). I move that we take vote on the proposition now.

(Motion prevailed.)

CHAIRMAN BRANDON. The motion is carried 47 to 24. The question now is upon the adoption of Proposal 359 as amended as a part of the Constitution of 1920.

(Motion prevailed 57 to 9.)

CHAIRMAN BRANDON. Proposal No. 359 with its various amendments is adopted as part of the Constitution of 1920.

Mr. DIETZ (Rock Island). I move to reconsider the vote by which the second part of section one was adopted, which struck out in section one the words, "the General Assembly shall also provide for the care of dependent, defective, delinquent and other children requiring special consideration."

CHAIRMAN BRANDON. The question is on the motion of the gentleman from Rock Island (Dietz) to reconsider section one as adopted.

Mr. HAMILL (Cook). The article in its entirety has been adopted by the Committee of the Whole, and it is not now in order to reconsider.

CHAIRMAN BRANDON. The only thing would be to reconsider the action of the Committee of the Whole. The question is on the motion of the delegate from Rock Island (Dietz) that the action of the Committee of the Whole in adopting the proposal be reconsidered because of his desire to offer a reconsideration of section one.

(Motion lost.)

Mr. MICHAELSON (Cook). I move that the committee rise and report progress.

(Motion prevailed.)

(President Woodward presiding.)

Mr. BRANDON (Kane). As representing the Committee of the Whole, I wish to report that the committee has adopted Proposal 359 with the amendments made thereto as part of the Constitution of 1920.

(Report adopted.)

PRESIDENT WOODWARD. Under the rules the report of the Committee on Phraseology and Style, and it is so ordered.

Mr. LINDLY (Bond). I ask the privilege of sending to the secretary for reference to the proper committee some requests from the Young People's Christian Association and churches of the City of Greenville with reference to the reading of the Bible in the public school.

THE PRESIDENT. Without objection, the communications will be referred to the Committee on Bill of Rights, and it is so ordered.

Mr. TRAUTMANN (St. Clair). I move that we now adjourn until 9:30 tomorrow morning.

Mr. JOHNSON (Henry). I would like to amend that and make it nine o'clock instead of 9:30.

(Motion prevailed.)

Whereupon an adjournment was taken by the Convention to Wednesday, May 12, A. D. 1920, 9:00 o'clock a. m.

WEDNESDAY, MAY 12, 1920.**9:00 o'Clock A. M.**

The Convention met pursuant to adjournment.

The President in the chair.

Prayer by the Chaplain.

THE PRESIDENT. The Journal of Thursday, May 6, 1920, was placed on the desks of the delegates on yesterday, and is now subject to correction. There being no corrections proposed the Journal of Thursday, May 6, A. D. 1920, will stand approved, and it is so ordered.

Whereupon the Convention proceeded upon the order of special orders of the day, reports of standing committees.

Mr. SMITH (JoDaviss). I desire to submit the report of the Committee on County and Township Government, the majority and minority reports.

MAJORITY REPORT.

Your Committee on County and Township Government to which was referred Proposals numbered 12, 41, 45, 52, 59, 60, 64, 65, 83, 95, 125, 126, 127, 145, 150, 158, 162, 175, 176, 177, 179, 180, 187, 212, 223, 233, 290, 303, 309, 310, 323 also Article 10 of the Constitution of 1870 except sections 7 and 13, respectively, reports the same back with a substitute therefor, being Proposal No. 362, a Proposal entitled "Counties" and recommends that the original Proposals, above enumerated, be rejected, and that the substitute Proposal No. 362, be placed on the General Orders.

(Signed) ARTHUR M. SMITH,
F. R. DOVE,
S. W. MCGUIRE,
HERBERT T. LILL,
A. E. TAFF,
GEORGE W. HOGAN,
L. A. JARMAN,
WM. S. GRAY,
JAMES NICHOLS,
MARTIN J. O'BRIEN,
Committee.

MINORITY REPORT.

This minority report concurs in the report of the Committee on County and Township Government, except as to section 6 thereof, and recommends that said section 6 be rejected and that the minority report, being Proposal No. 363, be substituted therefor.

Respectfully submitted,

L. A. JARMAN,

Member Committee on County and Township Government.

THE PRESIDENT. In accordance with the rules, the reports will lie upon the table and be printed.

Whereupon the Convention further proceeded upon the order of reports of select committees, introduction of proposals, first and second reading of proposals, motions and resolutions.

Mr. STEWART (Edgar). I present the following resolution, "Resolved, that Rule 29 of the rules of this Convention be amended by adding the following: "No delegate shall speak to exceed ten minutes on any one question, except that the proponent of any question shall be entitled to speak

fifteen minutes in favor of such question and shall have five minutes in which to close the debate thereon."

This Convention has been assembled for about four and one-half months, and many of the important committees have tendered or are about to tender their reports at this time, and there is much work before this Convention, and I believe it is now time that this limit be put on the debates, and I therefore offer this resolution.

Mr. FIFER (McLean). Mr. President, it would be a mistake at this stage of our proceedings to shorten the debates on these questions that are coming before the Convention for its consideration. It seems to me that the debates on these questions are the most important part of our work. We have been here now for about four months, getting ready to discuss those questions in open Convention, and a speech of ten minutes in many instances is no speech at all. I believe the Convention would be better satisfied, and I believe also the people of the State would be better satisfied, and the chances are we would make a better Constitution if the rules respecting debates would remain as they are for a time, at least. I think that these questions should be fully discussed and fully understood, and it will be much better for all concerned if we would leave the rules as they are.

Mr. GOODYEAR (Iroquois). I move that the Convention refer the resolution to the Committee on Rules.

THE PRESIDENT. Rule 72 requires one day's notice of a resolution to change the rules. Therefore, at least, the debate on that question is out of order at this time.

(Motion prevailed.)

Whereupon the Convention further proceeded upon the order of general orders of the day.

THE PRESIDENT. Under general orders of the day, the report of the Committee on Distinction Between Legislative and Constitutional Subjects is on for consideration. The Convention will now resolve itself into the Committee of the Whole for the purpose of considering the report of the Committee on Distinction Between Legislative and Constitutional Subjects. The Chair designates Delegate Dietz, chairman of the Committee on Distinction Between Legislative and Constitutional Subjects to act as chairman of the Committee of the Whole. (Applause.)

Mr. DIETZ (Rock Island). The Chairman on Distinction being unable to articulate has requested the delegate from Will, Corlett, to preside.

THE PRESIDENT. Mr. Corlett will please take the chair. (Applause.)

CHAIRMAN CORLETT. The Secretary of the Convention will read the report on Proposal 15.

THE SECRETARY. (Reading). Your Committee on Distinction Between Constitutional and Legislative Subjects to which were referred Proposal number fifteen (15) entitled, "A proposal to retain in the new Constitution the article on warehouses in the present Constitution," and Proposal number one hundred sixty-six (166) entitled, "A proposal to repeal article XIII of the Constitution of 1870," reports that it is the opinion of the members of the committee that the said proposals relate to a constitutional subject. Therefore, inasmuch as your committee is without authority to consider these proposals upon their merits, the committee recommends that the said proposals be referred to the proper committee for consideration upon the merits.

CHAIRMAN CORLETT. What is the pleasure of the Convention?

Mr. DUNLAP (Champaign). I move the adoption of the report of the committee, and recommend to the Convention that the report be adopted.

CHAIRMAN CORLETT. Any remarks?

Mr. CARLSTROM (Mercer). As to article 13, of Proposal 15, that dealing with railroads and warehouses, as to that part of the report, I would like to move that we recommend that that portion of the report be approved and referred to the Committee on Phraseology and Style, and that become a part of the Constitution. I offer that as a substitute. I want to say I made inquiry as to the procedure we might take upon this matter, and I take it if we retain that section in the Constitution we should retain it as it is, and as construed by several decisions of the Supreme Court. I believe it is vitally

necessary, and only an unnecessary waste of time to refer it to committee. We might as well refer it to the Committee on Phraseology and Style at this time. I believe it would be the part of wisdom to recommend to the Convention that it be adopted and become a part of the Constitution and be referred to the Committee on Phraseology and Style in order to get prompt action on it. I am not familiar with the other part of the report. The motion is to separate a part of the report on article XIII of Proposal 15.

Mr. DUNLAP (Champaign). The merits of this proposal have not been considered, as I understand it by this committee, and therefore it having been decided in that committee that we approve it, it should be referred to the proper committee. The gentleman may be all right, that is the proper thing to do, to adopt it, but I believe the proper order would be to refer it to this committee.

Mr. TRAUTMANN (St. Clair). There is another reason that has not been advanced by the delegate from Champaign why the course should not be pursued as suggested by the delegate from Mercer (Carlstrom). You will all remember about the last week of January the entire Constitution was referred by this Convention in committee report to the various committees. Now, this section with reference to warehouses is before the committee, and I think the Committee on Corporations, and it would be unfair to that committee not to refer it to them for consideration on the merits.

Mr. LOHMAN (Cook). The Committee on Corporations is about ready to report, but the warehouse section has never been before that committee.

Mr. DEYOUNG (Cook). I have a copy of the report of the Committee on Rules and Procedure, and I find that article XIII was referred to the Committee on Distinction and not to any other committee, so that article of the Constitution has not been referred to the Committee on Corporations.

CHAIRMAN CORLETT. It is not my purpose to argue this matter with you, but I feel for the information of the delegates to this Convention it is entirely proper to state that when the Committee on Distinction Between Constitutional and Legislative Subjects had this article of the present Constitution before them for consideration, there was before the committee a number insisting that it be reincorporated in the Constitution we are now writing, and others very strenuously opposing that action. The committee to which it was referred believing that they had no authority to hear the matter upon its merits, confined that hearing to a consideration of whether it was in fact a constitutional or a legislative subject, and those appearing before the committee were told that it would be reported out and probably referred to some committee for hearing upon the merits, and there has been thus far no hearing upon the merits. It has been treated purely as a technical matter, and those interested in having it rewritten in the Constitution we are now writing, as well as those opposed to having it incorporated believe that they are to have a hearing before some committee to which it may be referred. Gentlemen, the delegate from Champaign (Dunlap) moved that the report of the committee be adopted. The delegate from Mercer moves as a substitute that the article be referred to the Committee on Phraseology and Style. Are you ready for the question?

VOICES. Question, question, question.

CHAIRMAN CORLETT. The question recurs upon the substitute of the delegate from Mercer.

(Motion lost.)

CHAIRMAN CORLETT. The question is on the motion to adopt the report of the committee.

(Report adopted.)

CHAIRMAN CORLETT. Will the Secretary please read the second report.

THE SECRETARY. (Reading). "Your Committee on Distinction Between Constitutional and Legislative Subjects, to which was referred Proposal No. twenty-three (23) entitled, 'A Proposal to Declare Certain Acts by Public Officers, sedition,' reports that it is the opinion of the members of the committee that the said proposal is a constitutional subject. Therefore, as your committee is without authority to consider said proposal, upon its

merits, the committee recommends that said proposal be referred to the proper committee, for consideration of said proposal upon its merits."

Mr. DIETZ (Rock Island). I move the report of the committee be adopted.

(Motion prevailed.)

CHAIRMAN CORLETT. Please read the third report.

THE SECRETARY (Reading). "Your Committee on Distinction Between Constitutional and Legislative Subjects, to which was referred Proposal number two hundred and eleven (211) entitled, 'A Proposal to Provide Employment Control and for the Classification of Certain Positions in the Public Service,' reports that it is the opinion of the members of the committee that the said proposal is a constitutional subject.

"Therefore, as your committee is without authority to consider said proposal, upon its merits, the committee recommends that said proposal be referred to the proper committee, for consideration of said proposal upon its merits."

Mr. DIETZ (Rock Island). I move the adoption of the committee report.

(Report adopted.)

CHAIRMAN CORLETT. Please read the fourth report, Mr. Secretary.

The SECRETARY (Reading). "Your Committee on Distinction Between Constitutional and Legislative Subjects, to which Proposal No. 282 entitled, 'A Proposal to Provide for the Removal of Snow and Ice from Sidewalks' was referred, reports that upon consideration of the proposal and the authorities, which control the question involved, it is the opinion of the members of the committee that the proposal is a constitutional subject.

"Therefore, as your committee is without authority to consider the proposal, upon its merits, the committee recommends that the proposal be referred to the proper committee for consideration of the proposal upon its merits."

Mr. DIETZ (Rock Island). I move the adoption of the committee's report.

(Report adopted.)

CHAIRMAN CORLETT. Please read the fifth report.

THE SECRETARY (Reading). "Your Committee on Distinction Between Constitutional and Legislative Subjects, to which was referred Proposal number two hundred and eighty-four (284) entitled, 'A Proposal for the Issuance of Bonds by the State or Municipalities to Encourage the Building of Homes and Buying of Lands by Citizens of the State,' reports that it is the opinion of the members of the committee that the said proposal is a constitutional subject.

"Therefore, as your committee is without authority to consider said proposal, upon its merits, the committee recommends that said proposal be referred to the proper committee for consideration of said proposal upon its merits."

Mr. LOHMAN (Cook). As the proponent of this proposal, I move you that this report of the committee be adopted.

(Report adopted.)

CHAIRMAN CORLETT. Please read the sixth report.

THE SECRETARY (Reading). Your Committee on Distinction Between Constitutional and Legislative Subjects, to which was referred Proposal number seventy-three (73) entitled, "A Proposal Defining Intoxicating Liquors and Beverages," reports that it is the opinion of the members of the committee that said proposal is a legislative and not a constitutional subject.

Therefore, your committee recommends that the said proposal do not become a part of the proposed Constitution.

Mr. MICHAL (Cook). I move the report of the committee be adopted.

(Report adopted.)

CHAIRMAN CORLETT. Please read the seventh report.

THE SECRETARY (Reading). Your Committee on Distinction Between Constitutional and Legislative Subjects, to which was referred Proposal number seventy-four (74) entitled, "A Proposal Granting Power and Authority to Municipalities to License and Regulate Boxing Contests," reports that it is the opinion of the members of the committee that said proposal is a legislative and not a constitutional subject.

Therefore, your committee recommends that the said proposal do not become a part of the proposed Constitution.

Mr. MICHAL (Cook). I move that the report of this committee lie upon the table. I would like to be heard for a few minutes as the proponent of this measure.

Mr. MORRIS (Cook). I make the point of order that you cannot lay anything on the table in the Committee of the Whole.

CHAIRMAN CORLETT. The point of order is well taken.

Mr. MICHAL (Cook). Mr. Chairman, I just want to address myself on this proposal a moment. This proposal, it seems to me, is in accord with the conditions of the times. I do not think there is anything unconstitutional or anything that savors of a strictly legislative matter. I do not want to be here on this floor as a captious critic nor express myself as being jealous of things that transpire in other communities, but I want to say right now that we have on the statute books of this State a statute prohibiting prize fighting, and so forth; that statute was enacted in the times when the London Prize Ring rules were in effect and has been on the books and has been kicked about and violated from the day of its passage until the present time. Right here in the City of Springfield, gentlemen, we see great big posters in the streets and in the stores and on billboards advertising fistic carnivals and boxing exhibitions, but in Chicago, that wonderful metropolis by the lake, which you gentlemen profess to have great love for, we are tied down and we cannot have anything of that kind, and it seems to me rather an unfair discrimination. I just want to call your attention, particularly to those who may have a fear that it is unchristianlike to permit gladiators in Pistiania to enter the squared circle, to call your attention to a press account appearing in the press of May 10, 1920, quite recently, and uncontradicted, and I take it substantial evidence of the correctness of the position I take in this matter. I read from the Chicago Evening American in the issue of May 10, 1920, and I am informed it appeared simultaneously in other publications that I have not in hand. It reads: "Dean Charles R. Brown of the school of religion, Yale University, admitted to the audience at the Sunday Evening Club in Orchestra Hall that he is a prize fight fan."

He was talking on "The Fighting Instinct." Dean Brown is one of the most noted religious educators in the country and gained considerable fame some years ago as the foe of a political ring on the Pacific coast.

"In every real man there is the instinct to fight," said Dean Brown. For centuries men have been willing to pay more to see a good prize fight than for any other form of entertainment. I am free to confess that I have always been interested in these contests. I have never seen a pugilistic encounter, but from the days of Sullivan and Kilrain I have always been an interested reader of the papers the morning after they take place.

"I believe the man who denies the natural lure of a spiritual conflict, whether between two men or two companies of men or two great armies, is in some manner lacking. The fighting instinct is inherent in most of us in whom the red blood still courses.

"The essential thing, when we find ourselves engaged in a fight, is to ask ourselves if we, like the Apostle Paul, are fighting a good fight. It is not for us to suppress the fighting instinct, but to guide it, to elevate it, to fight for righteous ends. There were some people who during the war seemed to think that the only phrase in the New Testament was 'resist not evil.' Righteousness that is worth while always has an edge on it. The fighting instinct and the spirit of love are the concave and the convex sides of the same thing.

"Wendell Phillips, or Salisbury, Jacob Riis, Abraham Lincoln all were fighters, they all fought the good fight. There are persons who have been fed chiefly on stained glass windows and meek, pietistic literature who have looked upon Christianity as a soft yielding philosophy of life.

"Yet, when we study the life of Christ, we find that He was no weakling. For one thing, we are told that He drove conscienceless money changers from the temple, and I assure you it takes some degree of strength to drive out a bunch of Jews who are making money.

"There is nothing soft or spineless in true Christianity. Christian wrath is wrath with a moral basis and that is the kind we should exercise. Not all the enemies of righteousness are in Germany or Turkey or Bulgaria. All around us we see greed, social injustice, graft and many other evils; sometimes these things are actually within ourselves. They will never be overcome save after a still, hard fight.

"The times call for no weak sentimentality, no mooning after the unattainable, but for strong men who will fight with God and against Him. And those who fight under that leadership fight on the winning side."

I do not think that this proposal could have a stronger endorsement than that which I have just read, and particularly as it emanates from one of the leading divines of this nation. I think, particularly since the coming into effect of the prohibition act, the various towns and municipalities of this State have been deprived of vast amounts of money which they have heretofore received by way of saloon licenses. This proposal seeks to give rights to municipalities to control and regulate these institutions which will offer to the public this form of amusement. I have no patience with the characterization that so many seem to make and indulge in, that a matter is legislative. I for one am willing to be an iconoclast. I do not want to be bound by the rigid rules set down some couple of hundred years ago in the day when there was great illiteracy in this country and in England. I think we have come to the time when we should assert ourselves and become proponents of meritorious things. I earnestly ask this Convention to adopt this proposal.

Mr. MILLER (Cook). May I ask this gentleman a question?

Mr. MICHAL (Cook). Go as far as you like.

Mr. MILLER (Cook). Before voting for this I want to be sure it is not in conflict with the main purposes and principles of the League of Nations. What are your ideas about that?

Mr. MICHAL (Cook). I want to say to my friend from Cook, I think your humor is pathetic.

Mr. DIETZ (Rock Island). I move that the report of the committee be adopted.

CHAIRMAN CORLETT. The question is upon the motion to adopt the report of the committee.

(Report adopted.)

CHAIRMAN CORLETT. Will the Secretary please read the eighth report?

THE SECRETARY (Reading). Your Committee on Distinction Between Constitutional and Legislative Subjects, to which was referred Proposal number seventy-five (75) entitled, "Prohibiting Professional Wrestling Exhibitions," reports that it is the opinion of the members of the committee that said proposal is a legislative and not a constitutional subject.

Therefore, your committee recommends that the said proposal do not become a part of the proposed Constitution.

Mr. DIETZ (Rock Island). I move the adoption of the committee report.

(Report adopted.)

CHAIRMAN CORLETT. Please read the report nine, Mr. Secretary.

THE SECRETARY (Reading). Your Committee on Distinction Between Constitutional and Legislative Subjects, to which was referred Proposal number seventy-seven (77) entitled, "For the Manufacture, Sale and Distribution of Beers," reports that it is the opinion of the members of the committee

that said proposal is a legislative and not a constitutional subject. Therefore, your committee recommends that the said proposal do not become a part of the proposed Constitution.

Mr. MICHAL (Cook). I move the adoption of the report of the committee.

(Report adopted.)

CHAIRMAN CORLETT. Mr. Secretary, will you please read Report No. 10?

THE SECRETARY (Reading). Your Committee on Distinction Between Constitutional and Legislative Subjects, to which was referred Proposal number ninety-eight (98) entitled, "In Relation to Athletic Exhibitions," reports that it is the opinion of the members of the committee that said proposal is a legislative and not a constitutional subject. Therefore, your committee recommends that the said proposal do not become a part of the proposed Constitution.

Mr. DIETZ (Rock Island). I move the adoption of the report.

(Report adopted.)

CHAIRMAN CORLETT. Mr. Secretary, please read Report 11.

THE SECRETARY (Reading). Your Committee on Distinction Between Constitutional and Legislative Subjects, to which was referred Proposal number one hundred and forty-eight (148) entitled, "To Prevent Monopolies," reports that it is the opinion of the members of the committee that said proposal is a legislative and not a constitutional subject. Therefore, your committee recommends that the said proposal do not become a part of the proposed Constitution.

Mr. DIETZ (Rock Island). I move the adoption of the report of the committee, Mr. Chairman.

(Report adopted.)

CHAIRMAN CORLETT. Please read Report No. 12, Mr. Secretary.

THE SECRETARY (Reading). Your Committee on Distinction Between Constitutional and Legislative Subjects, to which was referred Proposal number one hundred and fifty-seven (157) entitled, "Relative to the Charters of Benevolent and Fraternal Organizations, including those heretofore organized and those to be organized in the future," reports that it is the opinion of the members of the committee that said proposal is a legislative and not a constitutional subject. Therefore, your committee recommends that the said proposal do not become a part of the proposed Constitution.

Mr. LOHMAN (Cook). This is a proposal which I introduced at the request of two large fraternal orders of the State. The matter was referred to the Corporations Committee and the matter was re-referred to the Committee on Distinction. It has been the judgment of the Committee on Distinction this is not a constitutional matter. I move you that the report of the committee be adopted.

(Report adopted.)

CHAIRMAN CORLETT. Will the Secretary please read Report 13?

THE SECRETARY (Reading). Your Committee on Distinction Between Constitutional and Legislative Subjects, to which was referred Proposal number one hundred and eighty-six (186) entitled, "A Proposal to embody in the article of the new Constitution in relation to taxation the following provision imposing the duty on the owners of property to list the same for taxation and providing remedies for failure to do so," reports that it is the opinion of the members of the committee that said proposal is a legislative and not a constitutional subject. Therefore, your committee recommends that the said proposal do not become a part of the proposed Constitution.

Mr. DIETZ (Rock Island). I move the adoption of the committee's report.

(Report adopted.)

CHAIRMAN CORLETT. Mr. Secretary, please read Report No. 14.

THE SECRETARY (Reading). Your Committee on Distinction Between Constitutional and Legislative Subjects, to which was referred Proposal number two hundred and two (202) entitled, "A Proposal for the manufacture,

distribution, transportation or sale of beverages," reports that it is the opinion of the members of the committee that said proposal is a legislative and not a constitutional subject. Therefore, your committee recommends that the said proposal do not become a part of the proposed Constitution.

Mr. KUNDE (Cook). When I introduced the proposal, I really thought it was a constitutional provision. If the delegates to this Convention will read the Constitution of the United States they will read in that Constitution that the Constitution of the United States, the Federal amendment to the Constitution says that it is constitutional to pass a bill before the Federal authorities prohibiting the sale of intoxicating beverage of a certain percentage of alcoholic content. I know how the delegates are going to vote this morning and I know we have not a possible chance of passing it. Therefore, I move the report of the committee be adopted.

(Report adopted.)

CHAIRMAN CORLETT. Mr. Secretary, please read Report No. 15.

THE SECRETARY (Reading). Your Committee on Distinction Between Constitutional and Legislative Subjects, to which was referred Proposal number two hundred and twenty-four (224) entitled, "A Proposal to prohibit options in purchase and sale of commodities and dealing in stocks by margins, or in lottery," reports that it is the opinion of the members of the committee that said proposal is a legislative and not a constitutional subject. Therefore, your committee recommends that the said proposal do not become a part of the proposed Constitution.

Mr. O'BRIEN (Cook). There was some confusion with reference to that particular proposal. That proposal has been under consideration in the Committee on Miscellaneous Subjects. I do not know how that proposal was referred to the Committee on Distinction. Our committee has had that for sometime. We are going to make some disposition of that matter today, or at least try to, and I make the motion that matter be disposed of by the committee to which it has been referred, that it be referred to the Committee on Miscellaneous Subjects.

Mr. KUNDE (Cook). I am satisfied with that. When I introduced this proposal I talked the matter over with the President, and the President told me it would be sent to the Committee on Miscellaneous Subjects. I was so informed of that fact, Mr. Chairman.

Mr. TODD (Peoria). The record should show it is the recommendation of the Committee of the Whole that the Convention refer it to the Committee on Miscellaneous Subjects. I offer that as an amendment.

Mr. O'BRIEN (Cook). I will accept that.

(Motion prevailed.)

CHAIRMAN CORLETT. Mr. Secretary, please read the sixteenth report.

THE SECRETARY (Reading). Your Committee on Distinction Between Constitutional and Legislative Subjects, to which was referred Proposal number two hundred and eighty-eight (288) entitled, "A Proposal to prohibit persons or corporations from entering into agreement to fix or establish the purchasing price or selling price of good commodities," reports that it is the opinion of the members of the committee that said proposal is a legislative and not a constitutional subject. Therefore, your committee recommends that the said proposal do not become a part of the proposed Constitution.

Mr. DUPUY (Cook). I move that the report of the committee be adopted.

Mr. MICHAELSON (Cook). The Proposal 288 which was introduced by me reads as follows: "The General Assembly shall pass laws to prohibit under penalty of imprisonment in the State penitentiary any person or persons, firm or corporation, or any person or persons representing any firm or corporation, from entering into or making an agreement with any other person or persons, firm or corporation, or any person or persons representing any other firm or corporation to fix or establish the purchasing price or the selling price of any commodity." Mr. Chairman, if there is any one thing that has contributed more to the high cost of living, and has laid heavier

burdens upon the shoulders of our people within the last year or so, it is price-fixing and the establishment of prices, both purchasing and selling. Our people universally, not only in the State of Illinois, but all over the country, are suffering under the weight of this burden. The responsibility rests upon your shoulders as representing your district as it does on mine. I believe that a provision of this kind in the Constitution will help in a great measure to alleviate and to take from the shoulders of the people this terrific burden which they are carrying. Something ought to be done by this Convention in this regard. We ought to go on record expressing our disapproval of a system which is continually loading greater and heavier burdens upon our people. I do not know how you can go back to your districts and say that you did nothing to better the conditions that now exist. I cannot face my people and say that I did nothing. I want to go back to them and say at least that I introduced a proposal which would have a tendency to cure a condition which has become a burden. For that reason I introduced this proposal. If it is legislative, Mr. Chairman, there are other provisions in the Constitution which are of a legislative character. As a member of the Committee on Distinction I did not, because of absence, have an opportunity to discuss this question with the committee. I would be glad to have done so. Had I been present at that time I would certainly have brought to this Convention a minority report upon this question. The least we can do if we are here in behalf of our people is to do something to help them carry the burdens of life. The great monopolies that have been built up, the multi-millionaires that have been made through price-fixing are of an enormous number, and the conditions are getting worse instead of better. I move you, Mr. Chairman, that this Convention in order to give this matter the consideration which it ought to have, I move that the report be amended to read that the proposal be referred to the proper committee for consideration.

(Motion lost.)

CHAIRMAN CORLETT. The question now recurs on the motion to adopt the report of the committee.

(Report adopted.)

Mr. DIETZ (Rock Island). In view of the fact one proposal, 224, was not referred to this committee, I move a reconsideration of the vote upon that proposal, and move to withdraw that part of the report of the Committee on Distinction.

(Motion prevailed.)

Mr. DIETZ (Rock Island). I move to withdraw that part of the report by unanimous consent.

CHAIRMAN CORLETT. No objection, it will be so ordered.

That concludes the report of the Committee on Distinction Between Legislative and Constitutional Subjects. As there are some other matters which have been considered by the Committee on Miscellaneous Subjects, Mr. O'Brien, the chairman of that committee, will please take the chair. (Applause.)

(Chairman O'Brien presiding.)

CHAIRMAN O'BRIEN. Gentlemen, the Committee on Miscellaneous Subjects submits two reports, embracing numbers 3 and 220, which are embodied in 357, affecting Article I on Boundaries, and also Proposal No. 5 embodied in the new Proposal 358, affecting Article III concerning Distribution of Powers. What is your pleasure, gentlemen?

Mr. LOHMAN (Cook). I move the report of the committee be adopted.

Mr. DUNLAP (Champaign). I suggest that they be taken up separately.

CHAIRMAN O'BRIEN. Mr. Secretary, please read 357.

(No. 357 read by Clerk.)

Mr. CLARKE (Lake). I introduced Proposal No. 220, changing the language as to the northern boundary of Illinois. This report before the committee contains the language, substantially, of the proposal that I introduced. I think it is proper, therefore, that I state to the committee the reasons for introducing that proposal and for the report of the committee. The

gentlemen of the Convention will notice in looking at the present Constitution in regard to boundaries that there have been two changes made in boundaries. One which inserts after the words, "beginning at the mouth of the Wabash River, then following up the" the words "middle of the." The present provision of the Constitution says, "following up the same;" then the language as to the northern boundary reading "thence north, along the middle of said lake, to the line of north latitude $42^{\circ} 30'$, thence west to the middle of the Mississippi River;" the report of the committee changes it so it says "thence north, along the middle of said lake, to the line of north latitude $42^{\circ} 30'$, as the same, projected east, was, or may hereafter be, ascertained, surveyed, established and marked as the northern boundary of this State. Under the acts of Congress, now in force or which may hereafter be enacted, thence west along the line so ascertained, established, surveyed and marked, projected west, to the middle of the Mississippi River;" the rest of the article is the same as the present Constitution. As a matter of fact, the boundary as now occupied, and as it has been occupied, is not $42^{\circ} 30'$. On the west our line is about thirty-three hundred feet, over a half-mile, into what would be Wisconsin if the true line of $42^{\circ} 30'$ was observed. The line runs rather irregularly from the west, practically a straight line, and on the east on Lake Michigan, we are about twenty-nine hundred feet south of the true latitude of $42^{\circ} 30'$. Ever since the land has been occupied there it has been occupied in that way, so we have on the west, thirty-three hundred feet of Wisconsin; the line then starts east and crosses the true line of $42^{\circ} 30'$ near the western end of Winnebago county and then goes on southerly of $42^{\circ} 30'$ to a point on Lake Michigan about twenty-nine hundred feet, south of the true line of $42^{\circ} 30'$.

When the ordinance of 1787 was passed, after the cession of the northwest territory to the United States, the northwest territory comprised all the land northwest of the Ohio River, and when they divided up and set off the State of Ohio, the north line of Ohio was made the line running from the southern extremity of Lake Michigan to Lake Erie, and intersected by the western line of Ohio. When in 1805, Michigan territory was set off, that line was also observed, the south line running from the southern extremity of Lake Michigan to Lake Erie. In 1809 when the territory of Illinois was formed we had all west of the line of Indiana, the line running to the territorial limits, and in figuring on the State of Illinois they figured they would have the northern boundary of Illinois the southern extremity of Lake Michigan running west to the Mississippi River. There is I believe now near the City of Moline the markings of the line, the western terminus of the line. When that was proposed our delegate in Congress in 1817 urged Congress to make the northern boundary so that Illinois would border on Lake Michigan, arguing if the Mississippi was the only means of access to the sea, that if the States should divide, Illinois would naturally go to the south, having its only means of communication to the ocean down the Mississippi. That argument prevailed and the boundary line of $42^{\circ} 30'$ was established. Afterwards, the line of Indiana was moved a short distance north into Michigan so that they also could have access to Lake Michigan. The line of $42^{\circ} 30'$ was not ascertained at the time of the passage of the Act in 1818.

Along in 1825 out at Galena there was a great deal of contest as to what was Illinois and what was Michigan territory. In 1825 the residents of that district complained to Governor Coles that the authorities of the Territory of Michigan were trying to collect taxes from them. Governor Coles took up the matter with the territory of Michigan and also with the secretary of war, and afterwards in 1829 the legislature of the State of Illinois passed an act of the appointment of a surveyor to ascertain that boundary. The Congress of the United States on March 2, 1831 passed an act providing for the surveying of that line, and designating the surveyor general of Illinois, Arkansas and Missouri to act with the surveyor to be appointed by the State of Illinois, or, in the case the surveyor general did not act, the president should appoint a surveyor. The surveyor general did not act and the surveyor was appointed by the President of the United States. The survey was

started very late in the fall of 1831. It started at the Mississippi River and they placed a large stone weighing about seven tons on the line which they ascertained to be $42^{\circ} 30'$, but which as a matter of fact about thirty-three hundred feet north of the true line of $42^{\circ} 30'$. They ran about eleven miles east and then the weather was such that they abandoned the survey until the next year. Then came on the Black Hawk War and in 1832 in the fall, they started on the survey and ran a line on through to Lake Michigan where they placed a post about a chain from the margin of the lake and blazed the trees along the line. The statute of the State provided that stones be placed every five miles, but in their report, which they made and filed early in 1833, they reported the cost was so great they could not, so the only markings of the line were the ordinary marks made by the government surveyors. There is no mark now on the Lake Michigan site of the end of the line. That has been washed away, and no other mark apparently left, as I am informed. This matter was called to my attention by Mr. E. P. Wolf of Waukegan who made quite an exhaustive study of the matter, and it seems to me it should be taken up by this Convention in fixing the boundaries as to that part which would actually be in Wisconsin if the true line of $42^{\circ} 30'$ was observed, and we should claim jurisdiction over it.

Afterwards, and on June 23, 1836, Congress passed the act entitled, "An act to settle and establish the northern boundary line of the state of Ohio," and then it goes on to section three, which is as follows: "And be it further enacted, that the northern boundary line, ascertained, surveyed, and marked, agreeably to a law of Congress entitled 'an act to ascertain and mark the line between the state of Alabama and the territory of Florida, and the northern boundary of the State of Illinois, and for other purpose,' approved March 2, 1831, shall be deemed and taken as the line west from the middle of Lake Michigan, in north latitude $42^{\circ} 30'$, to the middle of the Mississippi River, as defined in the Act of Congress entitled, 'An act to enable the people of the Illinois territory to form a Constitution and State government, and for the admission of such State into the Union on equal footing with the original states,' approved eighteenth of April, eighteen hundred eighteen, and shall be and forever remain the northern boundary line of said State." By that act they approved the survey that was made under the Act of 1831.

The question may arise, what will this do with the boundary line as it relates to Wisconsin? The Act of 1836 setting off the territory of Wisconsin provided that the south line should be the northern boundary of Illinois, "bounded on the east by a line drawn from the northeast corner of the State of Illinois, through the middle of Lake Michigan, * * * and on the south from said point due east to the northwest corner of the state of Missouri; and thence with the boundaries of the state of Missouri and Illinois." That was the Territorial Act of 1836. On August 6, 1846, they passed the act for the admission of Wisconsin as a state, and it has this language: "Beginning at the northeast corner of the State of Illinois, that is to say, at a point in the center of Lake Michigan, where the line of $42^{\circ} 30'$ of north latitude crosses the same, thence running with the boundary line of the state of Michigan * * *; thence down the center of the main channel of that river (Mississippi) to the northwest corner of the State of Illinois; thence due east with the northern boundary of the State of Illinois to the place of beginning, as established by "An act to enable the people of the Illinois territory to form a Constitution and State government, and for the admission of such State into the Union on an equal footing with the original states."

Mr. TRAUTMANN (St. Clair). Will the gentleman from Lake yield to a question?

Mr. CLARKE (Lake). Certainly.

Mr. TRAUTMANN (St. Clair). I see, commencing on line eight going on down to lines ten and eleven you say "as the same, projected east, was or may hereafter be, ascertained, surveyed, established, and marked as the northern boundary of this State under the acts of Congress, now in force or which may hereafter be enacted;" if that language remains in there, "which may hereafter be enacted," do you think there would be any danger to the State of Illinois of losing the City of Chicago by changing boundaries?

Mr. CLARKE (Lake). No, sir. The thought in that language was this, as I said before, the line was surveyed and established under the Act of 1831, and was approved by the Act of 1836. I think I said that there were no marks showing the actual line now on the eastern shore. The mark on the western line is still there, it is in place there so that it can be ascertained, but there is no actual mark of the survey that could be ascertained on the eastern boundary. The thought in using that language was this, that Congress might hereafter try to ascertain that line and mark it, as there are no actual marks there besides occupation. I will show you here on this map.

Mr. SUTHERLAND (Cook). I rise to a point of information. Is this a tea party, or what is it?

CHAIRMAN O'BRIEN. I suggest, Mr. Clarke, that you come to the front where we can all hear you.

Mr. CLARKE (Lake). This is the United States Geological Survey, called the Lancaster Triangle, and in this corner down here is shown the line between Wisconsin and Illinois. Down here, (indicating) which the scale shows is about thirty-three hundred feet, is shown the latitude of 42° 30', and that is at the western end. On the eastern end, on Lake Michigan, the Waukegan Triangle of said survey shows the line between the state of Wisconsin and the State of Illinois. This shows the line of 42° 30' and the scale shows it is about twenty-nine hundred feet on the shore of Lake Michigan from the line of Illinois to the line 42° 30', and as I said before, the chart of Lake Michigan also shows the same thing and verifies the survey of the United States Geological Survey as to the eastern end of Lake Michigan. The balance of the report of the committee as to the concurrent jurisdiction was introduced by the delegate from Mercer (Carlstrom) and I have nothing further to say unless someone wants to ask me a question.

Mr. HULL (Cook). Does this do more than recognize established boundaries?

Mr. CLARKE (Lake). That is all it does.

Mr. HULL (Cook). It does not start any question or any subject of litigation at all?

Mr. CLARKE (Lake). As I understand it, there has never been any question raised as to the occupation by Illinois of the Wisconsin territory, or Wisconsin's occupation of Illinois territory, but it seemed to me for the future we ought to adopt the line that was established under the Act of Congress.

Mr. HULL (Cook). And that is recognized by all parties now?

Mr. CLARKE (Lake). Absolutely; the taxing bodies apparently recognize it and there has been no dispute so far as I have been able to ascertain.

Mr. NICHOLS (Ogle). Does this proposal simply confirm the line recognized by Illinois and Wisconsin?

Mr. CLARKE (Lake). That is the way I understand it, that is what I attempted to do by the proposal I introduced.

Mr. DUPUY (Cook). It seems to me that Wisconsin has a small strip of our territory. It seems to me that this Constitutional Convention is not the proper body to undertake to deal with that subject. We cannot appoint any committee to take the matter up and pursue it at length; besides there is a very well recognized proceeding that has been invoked many, many times. There are more than thirty cases in the Supreme Court in the United States in which boundaries between states have been settled by decree of the Supreme Court where there was some dispute or uncertainty in regard to their boundaries. The practice is perfectly well established and has been invoked in controversies between a great many of the states in nearly every section of the Union. I happened to have had occasion to consider this subject a little while ago and examined a great many of those cases. It is perfectly competent for the Attorney General of Illinois either with or without legislative authority, I take it, to file a bill or a petition for the purpose of having ascertained by decree of the Supreme Court of the United States the true boundary between these states. That necessarily in this case would involve questions of survey, questions of fact, questions

of law concerning where the true boundary is, whether or not the existing boundary, the recognized boundary has been acknowledged and recognized so long as to constitute estoppel against either state. Now, it would be desirable that the true boundary line should be established and ascertained and should be recognized by each of the states, but necessarily if we acquired additional territory we would take it from Wisconsin. If Wisconsin acquired additional territory she would take it from Illinois. We cannot handle this matter without affecting both of the states, and the states could not determine the boundary lines between themselves without the consent of Congress. The Congress of the United States must consent to the boundary line established. The states are not at liberty acting jointly and together to change their boundaries without the consent of Congress. That is according to the decisions of the Supreme Court of the United States, so it seems to me this is a somewhat tangled proposition and that we should not undertake to handle it, and while I am quite willing that the true boundary line should be ascertained, yet I think we should not undertake to handle it because this body is not well equipped for that purpose. I think we have our remedy by action of the Attorney General in the manner I have indicated. I should therefore feel constrained to vote against any proposition that will take up this question in this form, and I think we should adhere to the language contained in the Constitution of 1870 which is substantially the identical language contained in the earlier Constitution. We will save opening up what may become quite a controversy that might be somewhat protracted and might be irritating in our dealings with our neighbor state.

Mr. CARLSTROM (Mercer). I was the introducer of Proposal No. 3, and the gentleman from Lake, Mr. Clarke, introduced Proposal No. 230. My attention was called to the situation, and I spent several hours in conference with Mr. Clarke and became convinced that his position in the matter was correct. The original Act of Congress creating the State of Illinois provided that the eastern boundary should extend to the point 42° 30' north latitude and thence west to the center of the Mississippi River and thence down its course to its confluence with the Ohio. For the purpose of establishing that line 42° 30' north a commission was appointed by Congress, as the gentleman has already told you, who went upon the ground as they thought and surveyed and located the line of 42° 30' north latitude. Subsequent investigation has disclosed the fact that they were in error as to their survey. They reported they had a line 42° 30' north and had marked it by a post located near Lake Michigan and by certain other monuments which have long since disappeared excepting the one monument which was located at the northern terminus of the line which is now under a railroad embankment but which can be located. Congress in approving the report of the survey used the language "line 42° 30' north latitude" assuming that the survey was correct. For eight or nine years the State of Illinois and the State of Wisconsin have recognized the line as established by that survey, which later investigation developed is not 42° 30' north but is a diagonal line which cuts across the line of 42° 30' north by about fifteen hundred feet south of the eastern end and something over three thousand feet at the western end. There are no marks to indicate where that survey was made except the rock or stone at the western end. I was convinced that we were bound by the Act of Congress adopting that survey and that we were further bound by the recognition of the line between the two states for these eighty-nine years. It was at my suggestion that the language, the Act of Congress that may hereafter be passed respecting the markings and location of the line was included; for the reason we thought it possible that Congress might authorize the markings of that line by permanent monument, and if they did, the language of the Constitution would be such that we would automatically recognize the Act of Congress. I am convinced from the conferences I have had with Mr. Clarke and the very exhaustive information he has gathered on the subject that the language is suitable language to be employed with reference to the northern boundary of Illinois. With regard to the insertion of the words in the middle of the second line, that had reference only to the fact that the previous pronouncement stated

"thence up the Wabash," and there has been some contention as to whether it was one shore or the other shore; the question being open it seems to me the logical thing would be to take the position that the line should follow the middle of the river. I think we are bound by the Act of Congress, and if we are to establish the boundaries and mention them in this Constitution at all, it seems to me we should not stultify ourselves by saying that the northern boundary is $42^{\circ} 30'$ when we know it is not.

I do not believe there will ever be any confusion about the northern boundary for the reason that as stated for eighty-nine years now we have recognized the existing boundary by occupation and common consent. I believe they will forever remain as the northern boundary line of the State and the southern boundary line of Wisconsin, but the Congress of the United States might proceed to mark and establish that line by suitable monuments, and if they do then the language of our Constitution would automatically accept the benefits of that more definite location of the line.

I think great credit is to be given to Mr. Clarke because of his careful investigation and exhaustive research on this subject, and he should be commended. Personally I was thoroughly convinced by his presentation of the subject, and I believe he is right in saying that this language should be incorporated.

Mr. SMITH (JoDavies). The Act of Congress now of course recognizes the theoretical line of $42^{\circ} 30'$ or the line now actually occupied?

Mr. CARLSTROM (Mercer). It tinctures of both, but the practical effect would be that they recognize the line now occupied. They determined and fixed the line as established by the survey on the erroneous assumption it was $42^{\circ} 30'$, but the practical effect would be that they recognize the line as now occupied.

Mr. SMITH (JoDavies). I think that while there is much wisdom in what the delegate from Cook (Dupuy) has said concerning this line—I have reference to the northern boundary line of the State—yet I am one of those situated near the border line, and we are vitally interested in seeing to it that this northern border line is not disturbed. I hope that the delegates to this Convention will see to it that the Constitution of Illinois throws its protecting arms around our people that are near its border lines and will safeguard us and see to it that no future act of Congress will eliminate us from the State. I think that if our Constitution describes the line as it is now by actual usage that it will be a protection against any future disturbance by any possible act of Congress.

Mr. DEYOUNG (Cook). Do I understand that the line as surveyed is south, generally speaking of the actual line $42^{\circ} 30'$ north?

Mr. CARLSTROM (Mercer). On its eastern end it cuts diagonally across it, cuts over three thousand feet on its western end.

Mr. DEYOUNG (Cook). So the actual line on the Mississippi River is further north than contemplated by the Act of Congress?

Mr. CARLSTROM (Mercer). Yes.

Mr. DEYOUNG (Cook). And the northern boundary on Lake Michigan is further south than contemplated in the Act of Congress?

Mr. CARLSTROM (Mercer). Yes.

Mr. DEYOUNG (Cook). Don't you think it is entirely possible that under a construction or survey which was fixed in the past and which may be changed in the future that it is entirely possible we are opening the possibility, at least, of misunderstanding and possible litigation?

Mr. CARLSTROM (Mercer). I cannot conceive of that result by reason of this language adopting the Acts of Congress that are now in force and only providing that we shall automatically come under any Act of Congress that may hereafter be adopted looking to the marking or resurveying of that land. If Congress should attempt to establish a line other than that existing after eighty-nine years usage it would not be upheld in the courts.

Mr. DEYOUNG (Cook). You do not limit it to the line that was ascertained eighty-nine years ago, you say as the line was ascertained or may hereafter be ascertained.

Mr. CARLSTROM (Mercer). Yes, that is correct.

Mr. DEYOUNG (Cook). That is the thing I asked. It is entirely possible that a new survey may be made by authority of Congress which may take away from us something we possess, and you open up an avenue of possible difficulties, it seems to me. Surveyors do not always agree any more than lawyers do, and it is entirely possible there may be difference of opinion. I have always understood that the most prolific source of litigation was a line fence, but it may be entirely possible as between two states that a spirit of harmony might prevail that does not prevail among individuals.

Mr. CARLSTROM (Mercer). I was of the opinion in the first instance that the language should be retained of the old Constitution. I became convinced by Mr. Clarke's presentation of the subject, that that was not the line and we would be saying something that was not true.

Mr. DEYOUNG (Cook). I certainly recognize the great labor of the gentleman from Lake (Clarke) has been put to in this respect. I fear, notwithstanding what has been done, we may still have misunderstanding in the future, if we are going to leave it to any survey in the future.

Mr. CARLSTROM (Mercer). It was clearly and distinctly our intention to recognize and retain the present line. The language, "Acts of Congress which may hereafter be passed," was intended to refer only to that boundary as it has been established by the previous survey, and the identification of it. That is clearly and distinctly the purpose of the language.

Mr. DEYOUNG (Cook). Do you think you fortify or make that permanent by leaving it open to future surveys?

Mr. CARLSTROM (Mercer). There may be a separation of the language "as the same was surveyed or may hereafter be marked"—the language might be changed to make that conform to our position in the matter.

CHAIRMAN O'BRIEN. Are you ready for the question?

VOICES. Question, question, question.

Mr. REVELL (Cook). I move that the report of the committee be adopted.

(Report adopted.)

CHAIRMAN O'BRIEN. Mr. Secretary, please read Proposal 358.

(Proposal 358 read by the Secretary.)

Mr. PADDOCK (Sangamon). I move that the report of the Committee on Miscellaneous Subjects embodied in Proposal 358 be adopted.

(Report adopted.)

Mr. LOHMAN (Cook). I move that we now rise and report progress. (Motion prevailed.)

(President Woodward Presiding.)

Mr. O'BRIEN (Cook). Mr. Chairman, the Committee on Miscellaneous Subjects rises, reports progress and asks for the adoption of its two reports.

THE PRESIDENT. The question is in the concurrence of the Committee of the Whole in the adoption of the two proposals offered by the Committee on Miscellaneous Subjects.

(Report adopted.)

THE PRESIDENT. Accordingly under the rules the report of the committee is referred to the Committee on Phraseology and Style.

Mr. CORLETT (Will). The Committee on Distinction Between Legislative and Constitutional Subjects reports progress and moves that the action of the Committee of the Whole on the several reports be adopted by the Convention, and that the committee be granted leave to sit again.

Mr. MICHAELSON (Cook). I suggest, Mr. President, that as the report of the committee is made up of a number of reports I move to amend by asking that each report be voted on separately.

THE PRESIDENT. If there is no objection the chairman of the committee will make that report separately so the record may show action separately. The first report made and concurred in by the Committee of the Whole is on Proposal No. 15, entitled, "Proposal to retain in the new Constitution the article on warehouses in the present Constitution," and Proposal number 166, entitled, "A Proposal to repeal article XIII of the Constitution of 1870," and the committee recommends that the committee is

without authority to consider these proposals upon their merits and that the said proposals be referred to the committee for consideration upon the merits. Are you ready for the question?

(Motion prevailed.)

THE PRESIDENT. The next proposal reported by the Committee on Distinction Between Constitutional and Legislative Subjects is Proposal No. 23 entitled, "A Proposal to Declare Certain Acts by Public Officers, edition," and reports that it is the intention of the members of the committee that such proposal is a constitutional subject and recommends that it be referred to the proper committee for consideration upon its merits. The question is on the Committee of the Whole concurring in the report of the Committee on Distinction Between Constitutional and Legislative Subjects.

(Report concurred in.)

THE PRESIDENT. The next is the report of the same committee on Proposal 211 entitled, "Proposal to Provide Employment Control and for the Classification of Certain Positions in the Public Service," and reports without a recommendation that that proposal be referred to the proper committee and the question is upon the adoption of the report of the Committee of the Whole concurring in the report of the Committee on Distinction.

(Report concurred in.)

THE PRESIDENT. The next proposal is No. 282 entitled, "A Proposal to provide for the Removal of Snow and Ice from Sidewalks," and the committee recommends that the proposal be referred to the proper committee upon its merits. The Committee of the Whole recommends concurrence of the report of the Committee on Distinction.

(Report concurred in.)

THE PRESIDENT. The next report is upon Proposal 284 entitled, "A Proposal for the Issuance of Bonds by the State or Municipalities to Encourage the Building of Homes and Buying of Lands by Citizens of the State," and the committee recommends that the proposal be referred to the proper committee for consideration upon its merits.

(Report concurred in.)

THE PRESIDENT. The next is upon Proposal No. 73 entitled, "A Proposal Defining Intoxicating Liquors and Beverages," and the committee reports that it is the opinion of the members of the committee that such proposal is legislative and not constitutional, and the committee recommends that said proposal do not become a part of the proposed Constitution.

(Report concurred in.)

THE PRESIDENT. The next is upon Proposal No. 74 entitled, "A Proposal Granting Power and Authority to Municipalities to License and Regulate Boxing Contests," and reports that it is the opinion of the members of the committee that said proposal is legislative and not constitutional. The committee recommends that the proposal do not become a part of the proposed Constitution.

Mr. MICHAL (Cook). In accordance with the provision of the rules, I have transmitted to the secretary of this Convention a request signed by five delegates for a record vote and roll call on this proposition.

THE PRESIDENT. The Secretary will please call the roll.

Mr. REVELL (Cook). I rise to a question of personal privilege. I would merely like to state that my vote upon this question should not indicate that I am not an advocate and in favor of boxing and such contests as the gentleman referred to, but I am voting upon the matter of the proper reference of this subject, and therefore vote aye.

Mr. BARR (Will). Delegate Hamill (Cook) was called away by telegram last night to Chicago, and I would like to ask that he be excused from this session of the Convention.

THE PRESIDENT. If there is no objection the record will show that Delegate Hamill is excused from further attendance.

Mr. LATCHFORD (Cook). I would like the record to show that I am voting no,

Mr. MICHAL (Cook). I further wish the record to show that if Delegate Rosenberg, Potts and Ganschow were here they would vote in the negative on this proposition, and I ask that the record will so show.

Mr. PADDOCK (Sangamon). I would like to show that Delegate Green (Champaign) was called away last evening on account of business and cannot be here today.

THE PRESIDENT. Without objection the record will show that Delegate Green is excused.

On this question the yeas are 58 and the noes 17. The report having received a majority of those voting upon the proposition is declared carried and the report of the Committee of the Whole is declared adopted.

The next report is upon Proposal No. 75, entitled, "Prohibiting Professional Wrestling Exhibitions," and the committee reports that it is the opinion of the members of the committee that said proposal is a legislative and not a constitutional subject, and recommends that the proposal do not become a part of the proposed Constitution.

(Report concurred in.)

THE PRESIDENT. The next proposal reported by the committee is Proposal No. 77, entitled, "For the Manufacture, Sale and Distribution of Beers," and the committee reports that it is the opinion of the members of the committee that said proposal is a legislative and not a constitutional subject. The committee recommends that the proposal do not become a part of the proposed Constitution.

(Report concurred in.)

THE PRESIDENT. The next report is upon Proposal No. 98, entitled, "In Relation to Athletic Exhibitions," and the committee reports that it is the opinion of the members of the committees that this proposal is a legislative and not a constitutional subject, and recommends that the proposal do not become a part of the proposed Constitution. The Committee of the Whole recommends concurrence in the report of the Committee on Distinction.

(Report concurred in.)

THE PRESIDENT. The next report is upon Proposal No. 148 entitled, "To Prevent Monopolies;" the committee reports that it is the opinion of the members of the committee that said proposal is a legislative and not a constitutional subject, and recommends that the proposal do not become a part of the proposed Constitution.

(Report concurred in.)

THE PRESIDENT. The next report is upon Proposal No. 157 entitled, "Relative to Charters of Benevolent and Fraternal Organizations, including those heretofore organized and those to be organized in the future;" the committee reports that it is the opinion of the members of the committee that said proposal is legislative and not a constitutional subject, and recommends that the proposal do not become a part of the proposed Constitution.

(Report concurred in.)

THE PRESIDENT. The next report is on Proposal No. 186 entitled, "A Proposal to embody in the article of the new Constitution in relation to taxation the following provision imposing the duty on the owners of property to list the same for taxation and providing remedies for failure to do so;" the committee reports that in the opinion of the members that said proposal is a legislative and not a constitutional subject and recommends that the proposal do not become a part of the Constitution.

(Report concurred in.)

THE PRESIDENT. The next is upon Proposal No. 288, entitled, "A Proposal to prohibit persons or corporations from entering into agreement to fix or establish the purchasing price or selling price of food commodities;" the Committee on Distinction reports that it is the opinion of the members of the committee that said proposal is a legislative and not a constitutional subject, and recommends that the proposal do not become a part of the proposed Constitution. The Committee of the Whole recommends

concurrence in the report of the Committee on Distinction, and the question is on the adoption of the Committee of the Whole.

Mr. MICHAELSON (Cook). This being a very important matter in relation to all of the people in the State of Illinois, and there being some difference of opinion regarding legislative matters and constitutional matters, and the fact that the report of this committee is not in every way consistent, some matters of legislative character having been reported to this Convention for reference to committees, particularly the first one considered on warehouses, which the Supreme Court has ruled is essentially a legislative matter, and the question on the Acts of Public Officials being declared seditious, which I believe is entirely a legislative matter, and not having had an opportunity to be heard upon this question in the committee because of my absence, I desire, Mr. President, to ask for a roll call upon the adoption of the report of this committee, and for that purpose I ask four or five gentlemen, as required by rule, to rise and ask that a roll call be had upon this question.

THE PRESIDENT. The question is upon the adoption of the report of the Committee of the Whole recommending concurrence in the report of the Committee on Distinction reporting that Proposal No. 288 is not a constitutional subject. Over five members have demanded a roll call and the secretary will please call the roll.

Mr. SUTHERLAND (Cook). I would like to ask the delegate from Cook who is asking for a roll call on this question, or any member of the Committee on Distinction whether there is any doubt as to the power of the General Assembly to deal with this question? Second, whether it is not a fact that practically these provisions are now contained in the statutes of Illinois in the so-called Anti-Trust laws?

THE PRESIDENT. The Secretary will please call the roll.

(Secretary calls the roll.)

(Ayes 59, noes 19.)

THE PRESIDENT. The question having received the vote of the majority of the delegates, the report of the Committee of the Whole is concurred in.

No action has been taken as yet upon the further report of the Committee of the Whole withdrawing from consideration of the Committee Proposal No. 224. The committee recommends that Proposal No. 224 be withdrawn from the consideration of the Committee on Distinction at the request of the committee.

(Report concurred in.)

Mr. CRUDEN (Cook). The Committee on Suffrage desires to make a report at this time upon that part of Proposal 351 which was re-referred about three weeks and asked that it be returned to the general orders of the day as soon as convenient, because it affects some of the reports of other committees.

Your Committee on Suffrage to which was re-committed Section No. 8 of Proposal No. 351, together with Amendment No. 13 and the substitute therefor relating thereto, reports as follows: The amendments by unanimous vote were laid upon the table. Upon reconsideration of the subject matter contained in the original Section No. 8 the committee by unanimous agreement made such changes as it deemed necessary, and reports it back to the Convention as Sections 8, 9 and 10, herewith appended, with the further recommendation that they be adopted.

Section 8. Regular and final elections to fill offices created by this Constitution, or which are or shall be established by law, shall be held on the first Tuesday after the first Monday of November in each year and at no other time. Special elections to fill vacancies in elective offices, except as otherwise provided in this Constitution, shall be held on the day of the regular election.

Section 9. When a vacancy shall happen in an elective office and the unexpired term is less than fifteen months, the appointing power shall fill such vacancy by appointment. When the unexpired term is fifteen months

or more, such vacancy shall be filled at a special election to be held on the day of the first regular election occurring more than ninety days next ensuing such vacancy; but a temporary appointment may be made to expire upon the qualification of the person elected at such special election.

Section 10. All election days shall be legal holidays.

(Signed) WM. H. CRUDEN,
ANDREW H. MILLS,
JOHN E. TRAEGER,
HIRAM E. TODD,
GEO. F. LOHMAN,
WILL STEWART,
S. W. MCGUIRE,

Committee.

THE PRESIDENT. Under the rules the report of the committee will lie upon the table and will be printed. Now, does the Chair understand that it be taken and be placed on the general orders?

Mr. CRUDEN (Cook). Yes, I will make that as a motion.

(Motion prevailed.)

Mr. FYKE (Marion). I desire to present the report of the Committee on Corporations and Co-operative Associations.

Your Committee on Corporations and Co-operative Associations, to which was referred Proposals numbered 13, 30, 49, 137, 155, 156, 157, 167, 168, 169, 170, 171, 172, 173, 174, 245, 256, 292, 312, 319; and Article 11, except section 4, and separate section 1, of the Constitution of 1870, reports the same back with a substitute therefor, being proposal No. 364, a proposal entitled "Corporations," and recommends that the original proposals, above enumerated, be rejected, and that the substitute Proposal No. 364, be placed on the General Orders.

(Signed) EDGAR E. FYKE,
GEO. F. LOHMAN,
ERNEST KUNDE,
HIRAM E. TODD,
CHARLES J. MICHAL,
CHAS. V. PARKER,
JOHN J. BRENHOLT, JR.,
CHAS. H. IRELAND,
WM. H. BECKMAN,
ALVIN WARREN,
RUFUS C. DAWES,

Committee.

Mr. Elting submitted the following minority report:

The undersigned, being a minority of the members of the Committee on Corporations and Co-operative Associations, herewith submit a minority report of the Committee on Corporations and Co-operative Associations, which does not concur in the majority report of said committee, submitted herein, and recommend that the said majority report of the Committee on Corporations and Co-operative Associations be rejected; and that this minority report of said committee be substituted therefor and placed on the General Orders, said report being Proposal No. 365.

Respectfully submitted,

PHILIP E. ELTING,
Member of the Committee on Corporations and Co-operative Associations.

THE PRESIDENT. Under the rules the reports will lie upon the table and are ordered to be printed.

Mr. CORCORAN (Cook). I move that we adjourn until tomorrow morning at ten o'clock.

Mr. MILLER (Cook). I move to amend that by making it nine o'clock.

Mr. CORCORAN (Cook). It may be well for Mr. Miller to amend, but I was in committee until 11:30 last night and expect to be again tonight, and it is rather difficult to get up here in the morning at nine o'clock.

Mr. BRANDON (Kane). Will these matters be ready for debate tomorrow morning?

THE PRESIDENT. The proposal of the Committee on Suffrage will be ready for debate the first thing tomorrow morning.

THE PRESIDENT. The motion is that this Convention do now adjourn until nine o'clock tomorrow morning.

(Motion prevailed.)

Whereupon an adjournment was taken by the Convention to Thursday, May 13, A. D. 1920, nine o'clock a. m.

THURSDAY, MAY 13, 1920.**9:00 o'Clock A. M.**

The Convention met pursuant to adjournment.

The President in the chair.

Prayer by the Chaplain.

THE PRESIDENT. The Journal of Tuesday, May 11, 1920, was placed on the desks of the delegates on yesterday, and is now subject to correction. There being no corrections proposed, the Journal of Tuesday, May 11, 1920, will stand approved, and it is so ordered.

Whereupon the Convention proceeded upon the order of special orders of the day, reports of standing committees.

THE PRESIDENT. The Committee on Rules and Procedure submits a report:

"Your Committee on Rules and Procedure respectfully recommends that the reports of the Committees on County and Township Government and on Corporations and Co-operative Associations be taken from the table and placed upon the general orders, and that they be respectively considered upon the conclusion of the debate on the pending supplemental report of the Committee on Suffrage."

(Report adopted.)

Mr. SMITH (JoDavies). The Committee on County and Township Government desires to make a further report:

"The Committee on County and Township Government respectfully returns to the Convention section nine (9) of article X of the Constitution with the request that it be re-referred to the Committee on Chicago and Cook county."

(Report adopted.)

Whereupon the Convention further proceeded upon the order of reports of select committees, introduction of proposals, first and second reading of proposals, motions and resolutions, unfinished business.

THE PRESIDENT. On yesterday the Convention adopted the report of the Committee on Distinction Between Legislative and Constitutional Subjects relative to five proposals which that committee recommended as being constitutional matters, and further recommended the reference of the several proposals to the proper committee.

The Chair therefore would refer Proposal No. 15, entitled, "A proposal to retain in the new Constitution the article on warehouses in the present Constitution" to the Committee on Agriculture.

The Chair would refer Proposal No. 23, entitled, "A Proposal to Declare Certain Acts by Public Officers, Sedition," to the Committee on Legislative Department.

The Chair would refer Proposal No. 211, entitled, "A Proposal to Provide Employment Control and for the classification of Certain Positions in the Public Service," to the Committee on Legislative Department.

The Chair would refer Proposal No. 282 entitled, "A Proposal for the Removal of Snow and Ice from Sidewalks" to the Committee on Bill of Rights.

The Chair would refer Proposal No. 284 entitled, "A Proposal for the Issuance of Bonds by the State or Municipalities to Encourage the Building of Homes and Buying of Lands by Citizens of the State" to the Committee on Revenue, Taxation and Finance.

Whereupon the Convention further proceeded upon the order of general orders of the day.

THE PRESIDENT. Under general orders of the day, the supplemental report of the Committee on Suffrage is ready for consideration.

The Convention will now resolve itself into the Committee of the Whole for the purpose of considering the supplemental report of the Committee on Suffrage. The Chair designates Delegate Cruden to act as Chairman of the Committee of the Whole.

(Chairman Cruden presiding.)

CHAIRMAN CRUDEN. The committee will be in order, and the Secretary will read the minutes of the last meeting.

(Minutes of last meeting read by the Secretary.)

Mr. TRAEGER (Cook). I move we adopt section 8 as amended.

Mr. NICHOLS (Ogle). I offer the following amendment to section 8: Amend section 8 of the report of the Committee on Suffrage by adding thereto the following: "This section shall not apply to elections of directors and members of boards of education, and these officers shall be elected at such times and in such manner as may be prescribed by law."

I desire to say I am in hearty accord with and will support the report of the Committee on Suffrage, but it does seem to me that our school elections, which impose no expense upon the people of the community or State, should not be eliminated by this law. When the candidates and all parties strive for the supremacy on this particular day of the year, when partisanship becomes acute and public feeling runs high, it is inevitable that candidates for the school positions become involved in the turmoil of party strife. It is the one institution in this State above all others that should be permanently and everlastingly divorced from party politics, and it is for this purpose and to accomplish this result that I offer this amendment and urge its adoption.

Mr. TRAUTMANN (St. Clair). I take it from the reading of that amendment the section then would apply to the election of school trustees and not to directors of boards of education.

Mr. NICHOLS (Ogle). Yes.

Mr. TRAUTMANN (St. Clair). Now, Mr. Chairman, and gentlemen of the committee. I only had one object in view in preparing the original proposal, and that was to attempt to consolidate elections and to save the expense, and at the same time have enough elections in one day so there would be sufficient interest to get the people out and get them to vote the same as they do in presidential years. If there is not any good reason why these particular school officers should not be elected at the same time as other officers are, or on the other hand, there is another proposition coming up here (we might as well state it now) and that is to exclude judicial elections from the operation of this article so that the judges may be elected in June instead of November. Now, it seems to me that if the school officers are elected in November in the odd years when you elect your village officers and you elect your township officers, that you are not drawing the election of these officers into the political turmoil. I do not see why. There is nobody to be elected at that time except local officers; you do not elect a county officer or a State officer. All I attempted to do was to consolidate the various spring elections. Now, at this time in certain places we have three school elections in April. You had an election for township officers, and an election for village officers, and in addition to that you had a primary, but this does not affect the primary. If you can go to the polls and elect your village officers, your aldermen and at another time a supervisor, and at another time a member of the board of education, at another time the trustees of the schools, why cannot the people do that all on the same days. And yet it is not in politics. It affects nobody except the people of that particular polling place, or two or three polling places. If my idea was carried out, in addition to these particular offices, there would be elected in certain years your judges. There will be an attempt made this morning to take out the judicial officers. If they are taken out, if this committee sees fit to take them out, then I want to say to the gentleman who is offering this amendment that there will be nothing left on the day you elect your school officers except your village and township officers, because my idea has been all the time to consolidate the spring elections and put them in the fall on the even

year when you do not elect any other officers, and I do not think we would be putting the school officers in with the other officers.

Mr. CUTTING (Cook). I shall want to offer the amendment to which the delegate from St. Clair (Trautmann) has referred, as soon as it is proper to do so, and I want to be heard on that proposition.

Mr. DUNLAP (Champaign). I am in sympathy with the proposal as submitted here, but I do believe that the matter exempting the election of school officers is a very important one and ought to be accepted. I agree with the gentleman who offered the amendment. There is something like twelve thousand or more school districts in the State of Illinois. These elections are without expense to the districts or State, and they involve questions that are entirely of a local character, and oftentimes there is very little interest manifested in these, but when there is a question of considerable importance in that district, why the attendance of the electors comprise the entire population you might say; they are all interested in that, and that comes up as a paramount issue in that election. I think it would be a mistake to exempt these school elections that cost the State nothing, and another reason, and I think more important, and that is over the State a movement is going on to consolidate the schools as they now exist, and I am informed by the Superintendent of Public Instruction that not less than seventy-five different elections will occur this year upon that subject in this State, and among the twelve thousand school districts in this State that movement will go on for a number of years at least, and I think that it ought to be left for the General Assembly to say when such school elections shall be held, because if they incorporate a new school district in any community, they may, if this is put at the final period, be compelled to wait from eighteen to twenty-two months before they can complete their organization, before they can elect their board of directors in that school district. I know the gentlemen do not want to create such a hardship as that, as to hold a district in suspense for a period of nearly two years, perhaps, just for the benefit of a theory.

Mr. TRAUTMANN (St. Clair). May I ask the Senator a question: You do not mean to say this language in this section excludes the holding of elections or the question of consolidating school districts? This simply consolidates elections for the election of officers.

Mr. DUNLAP (Champaign). A petition might be filed after the election has passed for the organization of a school district. That election could be held, but after that vote is taken than they call an election for the election of officers.

Mr. TRAUTMANN (St. Clair). And that would have to be on a regular election day, and therefore, I think the gentleman's motion ought to prevail.

Mr. TODD (Peoria). May I ask the Senator a question: Are you familiar with any locality in the State of Illinois where school elections have been held up to this time with the other elections?

Mr. DUNLAP (Champaign). No, I am not.

Mr. TODD (Peoria). I wondered if the Senator's objection is not more theoretical than the experiment we are going to try. I hesitate about giving any personal experience, but I have been somewhat influenced in my action on the committee by the experience we had in our own community. The school board of Peoria had a special charter granted by the State of Illinois a great many years ago, and is operating under that charter. Because of that fact the mayor of the City of Peoria is an ex-officio member of the board of school directors, and because of that there has been injected into our school board some idea of politics. In fact, there has been a struggle going on for many years to control the board of education through political influence. When the City of Peoria went under the election commission, the politicians of the city, and I am not one of them, conceived the idea that the school elections under our charter must be held on the same day as the municipal elections, and that being so that they would be able to control the school board politically and get it into their power. They were successful to the extent that the school election was consolidated with the municipal elections. They have never controlled the school board since that time, but

all the people of the City of Peoria have taken more interest in the general elections because of the fact that the school elections were upon the same day, than they ever took before. I am simply stating that as a part of the experience we have had, that the tendency was to elevate the city elections instead of bringing down the school elections, and our school board is free from political influence and has been for the last four years, and it is the first time it has ever been free.

Mr. DUNLAP (Champaign). The principal item here is forcing these school districts newly organized to wait eighteen to twenty months, that is an important matter. I simply wanted to ask if you had considered that.

Mr. TODD (Peoria). No, but I think, Senator, the provision for appointment and for holding a special election in the fall would cover any vacancy, and the election would be held in the November following under this provision.

Mr. DUNLAP (Champaign). If this exemption is made, according to this amendment, it does not preclude the General Assembly from fixing the date of the election of school directors upon this date fixed in this section. The General Assembly might say that the first election of school directors in a newly organized district might take place within thirty to sixty days after it is organized, but all such elections should take place on the general election day, and it is to put it in such form that when the district is first organized they will not be inconvenienced in this way, that I would like to see the amendment carried.

Mr. WARREN (DeKalb). I am in favor of consolidating our elections, and I will support the amendment of Delegate Nichols for this reason. I do not think there is any good reason why we should include our school elections with all the other elections, especially with those in the rural districts. You are going to disfranchise a good many of the voters who take part in the elections in the rural districts, if you consolidate. You will not save anything in the cost of elections, and that seems to be the only thought in the minds of most of the delegates, the question of election expense. The idea of the community high school is spreading over the State like wild fire, and they are overlapping so that it will make it impossible for the voters to attend. I believe most of the voters would have to travel, if you held all the elections at one time, ten to twenty miles in order to vote in all places, which would be absolutely an inconvenience. The community high school election is held one week previous to your school elections, so it will give the voters an opportunity to vote at both elections, and so it makes it a hardship for the voters in the school district to combine these elections and I think it will be a mistake to impose upon the voters the necessity of trying to attend these elections, because they would have to travel from ten to twenty miles, and it would practically disfranchise the voters in the rural districts.

Mr. COOLLEY (Vermilion). May I ask the last speaker a question: Do you think it is possible to take care of the question you have raised by putting an extra ballot box in the polling place? Would it be necessary in other words to travel all these miles to vote at each point?

Mr. WARREN (DeKalb). It would absolutely, because these elections are held in different counties and different townships, and some of the districts have nine voting places, and with these community high schools the voters would have to go to three other polling places. These high schools take in territory six to eight miles out from the center, going a great many directions, that is true in Jasper county.

Mr. COOLLEY (Vermilion). That could be taken care of very nicely with an extra ballot box, as we do now. Those details can be arranged, but even though they cannot, how much better it would be to take one day and attend to these elections, because as a matter of fact it would be no disadvantage to the people who are interested in these elections travelling from place to place, because the pulling power, the advertisement, the agitation of the question would bring out the vote, and I can see no reason why in the particular case of a school election we should want to confine the matter to a few voters. We are here posing as a body of men undertaking to de-

velop a fundamental law. We talk about the principle, and every time a fundamental principle is raised some person arises and begins to want to conform his school district in this, that or the other detail. It seems to me we must get away from these little petty ideas, and if we have any fundamental principles let us enunciate them here and not try to work out every little detail to take care of our personal needs. I can name you two school districts within ten minutes drive of each other. In one two gentlemen meet upon the road and they say, "Well, Dave, you are it this time again," They hold no school election. For five years three men have taken care of the details of that school election, and in the other elections I have seen two of the best directors I have ever known beaten in thirty minutes. Why? Because a few people had voted, five automobiles were started up and down the alleys and in thirty minutes those two men were defeated. You know these are facts, and what good reason can the Senator from Champaign (Dunlap) give for wanting to put this in, some peculiar idea, getting away from the principle, and with the idea there is something sacred, there is something different about the school election from any other election. Why do we hold our elections? We try to select men, good men and if you can give me one reason why all the people voting in one day will do any injury to your school system I will support your amendment, otherwise I am against it, and I hope the gentlemen will defeat it, let us get away from this foolish idea that a school director or judge or anybody else is different from other people. (Applause.)

Mr. SUTHERLAND (Cook). I desire to offer as a substitute for the motion of the delegate from Ogle (Nichols) that the following be substituted for section 8, as presented by the committee to read as follows: "except as otherwise provided by general law concurred in by two-thirds of the members elected to each branch of the General Assembly and passed after January 1, 1922, all regular final elections to fill offices created by this Constitution, or which are or may be established by law, shall be held on the first Tuesday after the first Monday in November in each year and at no other time. Special elections to fill vacancies in elective offices, except as otherwise provided in this Constitution, shall be held on the day of the regular election." Now, Mr. Chairman, and gentlemen of the Convention, the only change that that makes is in the first part of the section, and it provides that the General Assembly by a two-thirds vote may depart in certain necessary emergencies to meet certain situations from the rule laid down for one election a year. I am very much in sympathy with the idea of having only one election a year, Mr. Chairman. I am very much impressed by the thought voiced by the delegate from Vermilion (Ccolley) that we must deal with fundamentals in this body and not attempt to deal with each particular situation. I am also impressed by the situation described by Delegate Gale and Delegate Wraren as to their particular situation and which exist, I am told, in other parts of the State. The delegate from Cook (Cutting) served notice that he will introduce a proposal to take the judiciary out from the operation of this general principle. Now, there are doubtless many things that are going to be hit in detail by the operation of this principle. How can we in this Convention foresee all these possibilities, and if we do foresee and proceed to take care of them, what shall we have, a Constitutional provision or a piece of detail legislation? I am a thorough believer in representative government, but we must permit our government to be representative and not make it by undue restrictions and limitations non-representative, or we shall utterly fail. I want to support the general principle of having as nearly as possible one election a year. I do not think we are capable, with all the wisdom there is in this Convention, to perceive the contingencies that will arise and that will allow us to lay down that rule flatly and absolutely. Therefore, I suggest we leave it to the legislature and in a way to be dealt with rightly, and treated as other emergency matters, and carried as other emergency are in the General Assembly by a two-thirds vote, and I move to substitute this for all the pending motions to this amendment to section 8.

Mr. TRAEGER (Cook). If I understand Mr. Sutherland right, the legislature may by two-thirds vote change this section eight?

Mr. SUTHERLAND (Cook). That is the idea.

Mr. TRAEGER (Cook). Well, why not eliminate section eight, if we are going to burden the tax payers with four, five or six elections a year. The object of this and for which the proposal was introduced by Mr. Trautmann is to relieve the tax payer from that enormous burden which has been placed upon him by the legislature with continuous elections. If we are going to give them absolute power by two-thirds vote, I dare say to you now that within six years you will have just as many elections as you ever had. I believe we are wasting a great deal of valuable time and that we should eliminate this section if we are going back to the old system. I believe the proposal introduced by Mr. Trautmann is a benefit to all the people of this State, and especially so to the large cities.

Mr. SUTHERLAND (Cook). Anyone who is familiar with legislative procedure is aware that there is a great deal more difficulty in getting a two-thirds majority in the house than there is in getting a mere constitutional majority, and it seems to me that that is as much of a limitation as we can wisely place on the power of the General Assembly to meet the very condition existing in this State, with its very complicated political machinery, at this time.

Mr. TRAUTMANN (St. Clair). I would like to ask the gentleman a question. Is your substitute for section eight, or all three sections?

Mr. SUTHERLAND (Cook). Only a substitute for section eight. I make that slight change at the beginning of section eight.

Mr. MILLS (Macon). It seems to me that these amendments are simply splitting hairs, and it seems to me that that is the most popular matter that this Convention has discussed, and if this provision is provided in the new Constitution it will be one of the most approved and receive the largest vote of any of the proposals to this Convention. Why? Two or three reasons. It is almost impossible, and it was in your election, to get the people to vote, to go to the polls and vote at the most important election that has taken place in this generation, selection and election of men to come to this Convention to change the fundamental law of this State. And there has been a cry going up all over this State against the needless multiplication of elections and of election expenses. We talk of lowering taxes and yet we pass laws that provide for laws that may be passed that are continually piling up the election expenses that the people of this State have to pay, and there is no getting away from it. I do not know the amount of money that it takes to conduct a general election in this State, but it amounts to millions of dollars. Now, somebody has got to pay that. You have to pay your share, if you have made out your tax schedule right, and I have to pay mine. Now, I believe that we ought to support this proposal just as it has come from this committee. We have considered all these questions and as suggested by the gentleman from Vermilion (Coolley), and also the gentleman from Cook county, all these questions have been considered and they have been weighed and these suggestions that have been made have been taken into consideration, and it seems to me that this report deserves the support of a majority of this Convention, and if it passes will receive the largest vote of any clause in the new Constitution.

Mr. CARLSTROM (Mercer). I am not going to make a speech on this thing, but I just want to state my position as to what I believe to be the fundamental difference between the report of the committee and the substitute offered by the gentleman from Cook, Mr. Sutherland. The idea of holding all elections on one day, of course, is ideal, and it is to be desired, but the idea of tying up in the Constitution rigidly without any means of relief, providing that this shall be done, having regard to the complicated machinery of government of the State of Illinois and its many political subdivisions, I say is a dangerous thing. I believe there ought to be some measure of flexibility that will enable us to meet the changes that might arise in the future. I do not believe that we are justified in saying that we can foresee the future and absolutely tie it up. I do not believe the legislature under any circumstances will unreasonably and unnecessarily saddle burdens upon the people. If the sentiment of the Convention, and I take it it

is almost universally in favor of a single election a year, which represents the people of the State, then that sentiment will impress itself upon the legislature. I take it, gentlemen, that they will hesitate seriously before they make any change other than allowing the provision to stand, that all elections should be one day, and I do believe we should leave that course available to them so they can meet the situation. I believe this matter should be seriously considered by this Convention, and I think the amendment should be adopted.

Mr. JOHNSON (Bureau). I desire to ask the introducer of this proposal a question, is it intended to consolidate the polling places?

Mr. TRAUTMANN (St. Clair). That is a matter of detail for the General Assembly, or for your local board of supervisors. It has nothing to do with balloting or ballot boxes, balloting places or anything else, and my object was to fix a day of election, make it a holiday so everybody would vote and you would get the benefit of the sentiment of the people and not twenty per cent. It has nothing to do with any of the other details. As the gentleman from Vermilion (Coolley) has said, if you need two or three or ten ballot boxes to take care of the different districts, that can be arranged, and I take it that that is not a constitutional matter.

Mr. JOHNSON (Bureau). Under this proposal with the balloting boxes and places of elections in the several united districts in a given county, and including a district that reaches and overlaps into another county, could these be consolidated in one place? I am not talking about the election. I am talking about the consolidation of the polling places, so that these ballot boxes might be all put in one place. Is that your idea?

Mr. TRAUTMANN (St. Clair). My idea is, it can be done. This does not prevent a man from going to a half dozen polling places on the same day and casting his ballot.

Mr. JOHNSON (Bureau). That does not answer my question. Do you think that under this proposal the place of voting, or the places of voting on this given day, could be consolidated into one place and thus take a citizen living in another county into a county of which he was not a resident for the purpose of voting?

Mr. TRAUTMANN (St. Clair). No. It simply fixes a day upon which they are going to vote and they can, and your question, I take it, is simply a matter of detail. This just fixes the date, limiting the date of election.

Mr. JOHNSON (Bureau). That is my understanding of it and that certainly must be the construction that must be placed on it, that this has to do with the consolidation of elections on a given day irrespective of the places where the citizen may be called upon to cast his ballot. That is right, is it?

Mr. TRAUTMANN (St. Clair). Yes.

Mr. JOHNSON (Bureau). Now, if that be true, I am asking you now how much expense would be saved by that sort of an operation if the places of voting would remain practically as they are today? Isn't it true that the same election officers would be required? Isn't it true that the same amount of ballots would be required, and would not the cost of conducting the election be practically the same as it is today, since we have as many different places of casting the ballots, and we have as many different election officials?

Mr. TRAUTMANN (St. Clair). No, that would not be true. You would simply have the same number of officials for one day, while now you have them for five or six days, but on the one day you would have the same number and do all the work. Every time you have an election you have a primary preceding that election, and we have to pay the judges and clerks and pay for the polling places every time for each primary. This would fix simply one election day a year and necessarily only one primary day, and you would pay the expense of all the numerous elections, but on the day it was held it would cost you just as much as any other one day.

Mr. JOHNSON (Bureau). We are not talking about primaries yet.

Mr. TRAUTMANN (St. Clair). It is intended to eliminate primaries except for the one election, we would have a primary day each year, and you

would select all of your officers on that one day; it reduces the primaries in number.

Mr. JOHNSON (Bureau). Yes, but I am talking here, if the chairman please, about the question of whether you would reduce the number of election officials, whether we would reduce their time, whether we would reduce the expenses incident to the conducting of such election. We may be able to reduce the expense somewhat, but it will be infinitesimal, in my judgment. Now, am I in accord with the sentiment of the delegates to this Convention to bring about fewer elections? I am in sympathy with that, but we are talking about building a Constitution which presumably ought to last longer than next year, or the year following, and the mere fact of the uncertainty as to the problems that may arise that none of us here can think of, can even dream of, or visualize, and the adoption of the proposal is to my mind a sufficient reason why it should not be the basic law of Illinois. That fact alone leads me to think that the matter is so questionable that we should not tie it up in the Constitution. Now, it is said that the General Assembly can be trusted. I am not advised, but I do know on this floor are certain members of the General Assembly who know more about that question than I do, but I want to make this statement, I have never heard yet of a concentrated public opinion brought to bear upon the General Assembly to consolidate these elections. I do not know any reason why our representatives will not yield to the public demand upon a question of this kind. Do you, Mr. Chairman? I do not know of any reason why, if the public should insist upon the General Assembly consolidating certain elections, why they would not yield to the consensus of public opinion. The question is contended that so many uncertainties, so many problems that they developed in carrying out this proposal with reference to all of these little local elections, that to my mind the provision which is incorporated in this substitute ought to meet with the minds of this committee. It seems to me that this matter, in the event we put it in the Constitution, should be so left that next year if in an attempt to carry it out it should be found by the people and particularly by the General Assembly that it was impractical, why not leave that door open in such a way that it may be cured, in place of calling upon the people to adopt an amendment to the Constitution? My judgment is, men, if we adopt this proposal as it stands here every member of this Convention will feel the blush of shame before five years go by that we endorsed the proposal. It is clothed to my mind with those uncertainties, those problems that we cannot now work out, problems that may develop in the very immediate future. I am not talking about twenty-five years hence, I am not talking about the next generation, I am talking about the day in which you shall live, and therefore, Mr. Chairman and gentlemen, while I would like very much to crowd all the elections of Illinois into one day and have it a national holiday, if that thing is found to be impractical by a test the door should be left open so as to change it. Therefore, I stand for the substitute.

Mr. WALL (Pulaski). This is considered by many of the delegates to be a radical proposition. I do not so regard it. It takes away from no citizen his privileges. It takes away no rights that the Constitution gives to the voters of the State. It simply seeks, Mr. Chairman, to not only economize elections by way of saving money, but it seeks to bring about a condition of things that will cause, it seems to me, a turning out of the voters of the State that will give in all elections a full, fair and free expression of their sentiments upon the questions pending in the elections. That to me seems a larger advantage, a better thing to do for the people than even the money that it saves. It is a big thing in that it affects directly the quality of the officers selected and the conveniences that follow. The quality, because the more votes there are polled at the election, the greater the chance that the officers selected will be good officers, and the latter part of this article makes the election day a legal holiday. The expressions of the public that I have heard since the introduction of the original proposal have been unanimously in favor of it. It seems to me immensely popular. Undoubtedly, Mr. Chairman, it will give to the people an article in the Constitution that they have

long wanted, that they seem to unanimously now cry for, and I cannot see where any great inconveniences may follow.

Now, with reference to the substitute. The substitute is mild. There might be, we cannot tell, such inconvenience that would follow putting this into the Constitution hard and fast for the next fifty years that two-thirds of the legislature—they have their ear to the ground at all times for public sentiment—there may be a time or circumstances might arise whereby it would be necessary to have different elections for different purposes at some other time than that fixed in the Constitution, and I take it if public sentiment should become so universal on this problem as to make it become a prime necessity to do this, then two-thirds of the legislature would listen to this sentiment and would enact such laws as would be necessary to carry out the will of the people upon any question that would arise. I think it is wise to put it in the Constitution that we shall have one election a year and later, if it becomes necessary, upon two-thirds vote of the General Assembly to give the liberty and the right to call other elections if they want to, or pass laws to that effect. I would like to ask this question with reference to the language of section eight as reported now by the committee, with reference to regular and final elections—is not a primary election an election?

Mr. SUTHERLAND (Cook). A primary election is an election.

Mr. WALL (Pulaski). Is it not a regular election?

Mr. SUTHERLAND (Cook). A primary election is an election, but it is not an election to fill office, but an election to make a nomination. After talking with the delegate from Lawrence (Gee) and following a suggestion made by him a few moments ago, I struck out the word "and," so instead of reading "regular and final elections," it reads "regular final elections to fill offices."

Mr. WALL (Pulaski). I think that explanation is sufficient. I am for the substitute.

Mr. SIX (Pike). I am in favor of the substitute, and urged that principle before the committee. It occurs to me that the substitute, in regard to making the provision more elastic, meets the requirements of the gentleman from Ogle (Nichols) and the possible amendment which has been suggested in regard to judicial offices. Let me say further that this elastic provision has been in use in Pennsylvania since 1909, and during the entire eleven years not one single change has been made in election days, which shows that this is workable. I again urge the adoption of the substitute.

Mr. HULL (Cook). Mr. Chairman and gentlemen of the committee. I am in accord with the desire to consolidate elections. I have been impressed, however, with the difficulties presented by some of the gentlemen. I know that the present situation has not been the result of a conscious effort of the legislature to simply multiply costs. It has been the result of the creation of new offices from year to year and session to session until it has become a serious evil, and I do know there have been bills presented during the last General Assembly having this evil in mind, and I am perfectly confident if this Constitutional Convention did not announce such a policy that the legislature would work out the solution of the problem in some rational way. As I say, I was impressed by the desire of the members of this Convention to consolidate these elections, but I also found that the proposal as presented was absolutely a rigid, inflexible proposal that ought not to be adopted. I believe that some provision should be made to give it more flexibility to meet conditions as they arise, and I have thought possibly an amendment such as this might meet this difficulty. Add to the section as presented here by the committee the following: "The General Assembly may provide other election days for local offices, subject to a referendum of the voters in the district affected." The problem has been presented here of costs. It does cost money to run elections. Popular government is an expensive thing, and it may be more expensive, perhaps, if we have elections in each year and the wrong officers are elected. That may be more expensive perhaps than having more than one election, and the people in your community might prefer to have separate elections. Now, if they would prefer that and would be willing to pay the costs, why should not that be allowed? I do not

know that this amendment would be in order at this time, due to the fact that Mr. Sutherland's proposal is really an amendment, but if the Convention should vote down his proposal I would be entitled to offer an amendment such as I suggested.

Mr. LINDLY (Bond). I have been thinking about this question since it came up, and I have been inclined to take the school elections out of the bill. I discussed this matter at considerable length with a great many of my people down home, and I have been impressed with some of the things they have said to me about it. They have said, "why not have the election of the school officers when all the people come out?" They said, "There is not a school district in our county but what is controlled by just a few men," and I was impressed very much by the gentleman's remarks from Danville (Coolley) when he said some men were beaten in the last half hour. If anybody here has had any experience with the school question he knows they generally wait until the last half hour, and now since they have automobiles, they control elections with six to eight men in the school districts. I was impressed with the school election in the City of Greenville where only eighty votes were cast out of one thousand votes that ought to have been cast, and I believe if the people go to the polls and vote in the school elections we will have the same result all over the State that the representative from Peoria (Todd) spoke of, and I am impressed also with the amendment of the gentleman from Cook. I take it for granted that if this Constitution would be adopted with this proposal in it, that we would have an experiment, and if it was satisfactory they would never want to change it, and it is my opinion they will never want to change it, but if they should, it opens the way and provides a means by which it could be done. If there was a great demand to change some election to a different time and they would come to the legislature the legislature might consider it, but I want to say to you gentlemen here that my experience in the legislature is that there must be an overwhelming demand for a bill to get two-thirds majority of the House and of the Senate. It must be such a demand that all will recognize the justice of it before it can be done, and if this was provided and it worked out the way we think it will, the legislature would correct that.

Somebody said on the floor there had been no demand for this proposition. I am sure that every man who has gone home from this Convention has heard more talk about this proposition in the country than any other one proposition that is before the Convention. The people of the State are sick and tired of primaries and elections and the multiplicity of them, and I doubt whether there are two men in the Convention who can tell when the different election days are in this State at this time. Men do not go to the polls because they do not know when elections are. If you give us one election day in the year and make it a holiday the people will go to the polls and it will stop the influence of money in the elections, because the man now who can furnish the most money to get the vote out is the man who is successful generally, and it will do away with that and men will vote their sentiments, and the people seldom ever make a mistake when there is a full vote polled on any question, and I believe the future of the elections of this State will be greatly benefitted and purified and elevated by the adoption of this.

Mr. NICHOLS (Ogle). I am convinced that the substitute offered by the gentleman from Cook covers everything I was trying to accomplish, and I will say I am willing to accept the amendment offered by the gentleman from Cook (Sutherland).

Mr. ELTING (McDonough). I favor the report of the committee which has been presented to us for consideration. I appreciate all that has been said by those favoring the amendment. Under our representative form of government we must have elections. Elections are necessary if we maintain our government. If that is true, it is necessary to have an election day, and I think the proposal presents a very popular idea in this regard, the idea of an election day certain when everyone will know it is election day, and it is his business for that day. This proposal fixes and makes it certain for final

elections. It leaves all the detail to the legislature for them to arrange to meet the various needs in each locality. The trouble with conditions as we have them now are that we have from five to ten elections in each county each year, which is a great waste of time, and, worse than that, we do not get the expression of the people as we should get it, and I say fixing the election on a day certain will insure a popular expression of the people in that community and in the State. I do not think this is an experiment. We have our elections and if we can have them so we can get results we are gaining ground. This proposal does not interfere with the appointing power, but would cover contingencies that might arise where new offices are created by the legislature, and they can provide for the temporary appointments to cover that breach. I studied that section and I do not see where the legislature is limited to fixing elections on this day, and, as has been said, they can provide for as many polling places as they see fit. It simply makes the business of that day the election of our representatives, and that will maintain and perpetuate our representative form of government. I favor the proposal as reported by the committee.

Mr. KERRICK (McLean). If I understand the recommendation, the report of the committee, the proposal is what is known as self-executing. If the report of the committee be adopted automatically we would have but one election day each year as qualified in the report. I am in favor of that, if for no other reason than because it will meet the dire need of having the electors express themselves by casting their ballots at elections. In an earlier discussion of this report it became evident that there was a sentiment practically universal in favor of doing something that would overcome the danger of this government being represented not by its people but by minorities, and a very insignificant minority, of its electors. It also transpired in the discussion that it was difficult even, if not impossible, to provide a means which in any way savored of compulsion. In the matter of compelling the attendance of the people at elections it would be almost impossible, the adoption of such a measure, if presented to the people, because of their natural dislike to be forced to do something even which they knew very well to be their plain duty. There seems to be no other way or method left by which the electors of this State and this nation can be brought to a realizing sense, or at least a willingness to exercise the right of suffrage, the most valuable right in the gift of man, and to make it less inconvenient to exercise that right and also to add greater interest in the way of creating an impulse on the part of voters to attend and express views on election day.

I am aware, from what has been said here and from my own thoughts on the subject, and with perhaps the limited information I have about the machinery of government of this State, that there would be a very considerable inconvenience in adjusting our governmental system in this State, with all its ramifications, to a single election in each year, but there are none of them insurmountable. They merely present difficulties which call for the exercise of ingenuity required to overcome them. If this proposal should be adopted either with or without the substitute or something in substance the same as the two combined, we will, from the time this Constitution be adopted, be under the rule of a single election in a year. The legislature will be under the duty merely of providing so far as it is able to provide suitable machinery to carry out that self-executing mandate of the Constitution. Now, it will be an experiment for a while, but the disposition I think of the legislature will be to act in good faith and not to shirk a duty, in determining in part whether or not it is wise to continue the exercise of the particular question under this provision as we are now considering it. That if after a fair trial, not a half-way trial, it is found then in whole or in part it is the part of wisdom to make changes suggested in the practice of attempting to put into force the proposition as it should be adopted; in my opinion it is wise to have provision made that will make it possible to make changes, and for that reason I am in favor of the substitute offered by the gentleman from Cook, with some misgiving, however, that it will lie within the power of the legislature at its first session, at the first convening of the

General Assembly subsequent to the verdict which will be passed upon our work by the people, to adopt, and it is a very easy thing to do, the line of least resistance. It might say that this thing is not going to work as intended by the Constitutional Convention, there are too many impediments in the way. You hear suggestions from this locality, just as are being made here, and perhaps more vociferously, that "it won't work in our neighborhood," or in some other neighborhood, "it does not apply to this condition, or that or the other," and there is danger that the legislature which takes up the task of remodeling the statutory law of this State because of what has been provided by this Convention, that they may take the easier way, and it is possible under that situation that it will not be so very difficult to obtain a two-thirds vote in each branch of the legislature of this State practically nullifying what this Constitutional Convention may do with regard to this proposition.

Now, as I said, I believe it is wise to have some such provision as is embodied in the substitute proposed by the gentleman from Cook, and I believe that is probably the prevailing sentiment among the members of this Convention. However, it does seem to me that if the gentleman holding the substitute would add something to the substitute which would be in a way imperative upon the legislature to give this thing a fair trial, something which would prevent the legislature from disposing of the matter in a hurry and along the lines of least resistance at its first session after this Constitution becomes the fundamental law of the State—I have no particular suggestion in mind, but I have the fear that it is possible that in view of the amount of labor which the next legislature must inevitably perform, that it may listen to arguments that are not sound and which will constitute their notion of getting along with dispatch in reframing the statutes of this State, that they will not give this matter as conscientious consideration as it should have. And it may be possible in that first session there will be a sentiment to the effect that our present machinery in regard to elections is better perhaps than any we can make under this provision in the Constitution and they will put themselves in a situation they can do what they please, or in any way they please with reference to the election machinery of this State by obtaining a two-thirds vote in each branch of the legislature. Now, if something is added, and I shall ask the gentleman from Cook, Mr. Sutherland, if he has got my point, if you can frame something which would prevent the legislature at its very first session after the Constitution becomes the fundamental law of this State from taking the easiest way, ridding themselves of the difficulties there may be, and there will be many, growing out of the provisions of self-executing provisions of the Constitution, that we must proceed under the one election only from that time on.

Mr. SUTHERLAND (Cook). To save time, I think I understand the suggestions of the delegate from McLean, and I will say if the delegate from McLean (Kerrick) can satisfy the delegates from Ogle (Nichols) and from Lawrence (Gee), so that they would be willing to take this additional burden for a period of two years or four years and then just as it stands, for that is what they would have to do to give it a test, I would be agreeable to it. My only thought was to safeguard the possible troubles that would arise in different territories, and I agree entirely with the delegate from Bond (Lindly) that a two-thirds vote in the General Assembly is a very difficult thing to get, and that a real cause would have to be shown for it, and I want to point this out, that this proposition of mine would not permit the one election a year program until after January 1, 1922, and that would necessitate a complete revision of the election law to put it into effect, and that in revising the election laws on any point on which they wanted to depart from fixing the election on any other day than the first Tuesday after the first Monday in November it would take a two-thirds vote in the house and also in the Senate. Now, if the suggestion of the delegate from McLean (Kerrick) is agreeable to those delegates who are proponents of the one election a year, plan, it is agreeable to me; I am trying to take care of the general situation.

Mr. SHANAHAN (Cook). I am heartily in favor of the amendment offered by the gentleman from Cook, Mr. Sutherland, and I think there was a great deal of thought in what was said by Delegate Johnson (Bureau). I fear that the delegate from McLean (Kerrick) is mistaken in his view of what the legislature may do. There is a great sentiment, amounting to almost a demand in the General Assembly, that there be a revision of the election and primary laws, and during the last session of the General Assembly a special committee would have reported a revision were it not for the fact that the Constitutional Convention had been called. And I want to say it is a very hard proposition to get through the General Assembly an emergency requiring two-thirds of both houses and the approval of the Governor other than an appropriation bill, and I believe it would be a great mistake to tamper with the amendment offered by the gentleman from Cook (Sutherland), which would really aid the General Assembly in providing what there is a public demand for, a lessening of this enormous election expense throughout the State, and especially in the City of Chicago, and I hope the amendment will be carried.

Mr. TRAUTMANN (St. Clair). Mr. Chairman and gentlemen of the committee. I will be brief as possible. There is but one issue presented in this substitute as compared with the original section eight presented by the committee, and that is whether this Convention desires to fix positively one election day or whether it desires to pass that question up to the General Assembly; now, then, like some of the other gentlemen who have spoken, I too have had a little experience in the General Assembly, and I am sorry that at this time I cannot agree with the speaker of the House, but I must agree with the Senator from McLean (Kerrick) who has just spoken and who also has had experience in the General Assembly. I take it that practically every member of this Convention is in favor of consolidating the elections, if possible, in some way. There are some gentlemen who would like to exclude the schools, there are other gentlemen who would like to exclude the judges, and there are others that might want to exclude other officers, but I take it there is no one here who wants to exclude any two of them, so the sentiment is almost universal, and the only thing that has made me apprehensive of the amendment offered by the gentleman from Cook (Sutherland) is this, and it was covered by a statement made by the gentleman from McLean (Kerrick). Every one here knows if this is adopted, as originally presented by the committee, that it will necessitate the changing of many laws. All your election law with reference to your local elections will have to be changed to meet the change, and change the date from the spring to the fall of the year. Now, then, when the General Assembly in 1921 starts out on that program, the changing of these numerous laws, they will find it far more easy to change to just pass one law and say that these officers shall be elected as they are now, and they will only have to pass one with a two-thirds vote instead of passing all the others with a majority. When you come to the General Assembly you will find a great number of the House and Senate that want the judges excluded; some would want the school officers excluded, others want the mayor excluded, and others might want the local township officers excluded, but when you get them all together and when you put them all in one pile you will find there is no difficulty in getting two-thirds vote, in order to pass it, and your work here is all for naught. The Senator from McLean (Kerrick) makes this suggestion, if this amendment would not go into effect as offered by the gentleman from Cook (Sutherland) for four years, then the legislature would have to pass laws to try this experiment. Now, if you make that change, I am with you, because I believe if you have consolidated these offices once you will never be able to change it in the legislature, and that is why I wanted it fixed in this Constitution, but if you gentlemen believe the legislature should be allowed to use their own judgment, all right, but I am afraid they will do just exactly what I have said they will do. But if the gentleman from Cook (Sutherland) will amend his amendment compelling the legislature to put this into execution, or providing, which is better, that they will go with it until 1924, then I am with you, because if in three or four years they find it is not

workable or not as satisfactory as now, and if they are willing to go back to the old system and pay for it, all right, I am willing that they shall have a chance to do it. Personally I am so much in favor of this proposition that I want to see it tried, but I don't say it is absolutely necessary to tie it down for all time, except it could be changed by amendment to the Constitution. So, if the gentleman from Cook will make that amendment or include it in his substitute, I am willing to go that far. As it is now, I am not in favor of it.

Mr. SHANAHAN (Cook). I would like to ask this question: would the amendment offered by the gentleman from Cook (Sutherland) be satisfactory if at the end of the provision was added, "provided, however, that any acts passed on this subject would not go into effect until January 1, 1927?"

Mr. TRAUTMANN (St. Clair). Entirely so, that would give the people the opportunity to try this out.

Mr. SUTHERLAND (Cook). With the consent of the committee and of the delegate from Ogle (Nichols) who withdrew his amendment in favor of this substitute, I propose that the substitute shall now read: "Except as otherwise provided by general law concurred in by two-thirds of the members elected to each branch of the general assembly and passed after January 1, 1927, all regular final elections to fill offices created by this Constitution, or which are or may be established by law, shall be held on the first Tuesday after the first Monday in November in each year and at no other time. Special elections to fill vacancies in elective offices except as otherwise provided in this Constitution, shall be held on the day of the regular election."

Mr. CUTTING (Cook). I simply wish to say that while I do not agree with the sentiment expressed by the gentleman from St. Clair (Trautmann) entirely, yet with this amendment I am content, and shall not introduce the amendment which I had intended to introduce, and concerning which I made my previous announcement. I shall vote for this amendment. (Applause.)

Mr. GILBERT (Jefferson). Mr. Chairman and gentlemen of this Convention. When this proposal was first offered I had some misgivings as to the feasibility of the consolidation, and I have some now, but I wish to say that impressed by all that is said and done, with the substitute moved and amended as offered by the delegate from Cook (Sutherland), I am perfectly willing and anxious to vote on it.

Mr. DAVIS (Cook). I make a motion to close debate.

(Motion carried.)

CHAIRMAN CRUDEN. The question now is upon the adoption of the amendment offered by delegate Sutherland from Cook.

(Amendment carried.)

Mr. CUTTING (Cook). I now move the adoption of section eight into the Constitution.

(Section eight adopted.)

CHAIRMAN CRUDEN. The secretary will please read section nine.

(Section nine read by the secretary.)

Mr. LINDLY (Bond). I move its adoption.

Mr. SIX (Pike). I move the following as a substitute for section nine: "In case of vacancies and in case of newly created offices, temporary appointees shall be made in such manner as is or may be provided by law, such appointees to serve until successors shall be chosen by election." That is offered with the view of taking out the legislative matter that is in the original section, and in addition to taking care of that situation where a newly created office is to be filled. It occurs to me that the section offered by the committee is legislative in character.

Mr. TRAUTMANN (St. Clair). It seems to me that it is not quite explicit enough. This section nine provides, "If a vacancy occurs which is less than fifteen months, that it shall be filled by the appointing power"—not until the next election, but the vacancy shall be filled for the balance of that term. There is no such provision in this amendment offered by Mr. Six. Now, under his provision if a vacancy should happen to occur in an office a little more than a year, say thirteen months, it would have to be filled at

the next election, but it would only be filled for two or three months. The man appointed would serve eleven months and the man elected would only have two or three months. The reason that was done, most of the vacancies, for instance, take a vacancy in the Supreme Court or circuit court bench, if it is less than one year the governor fills it, if, for more than a year he does not. The reason this was made fifteen months instead of a year was to take care of the cases of vacancy that occur in the last three months before election when it is too late to get a name on the ballot, and fifteen months would cover that, and for that reason it seems to me the report made by the committee would take care of the conditions better than the amendment offered by Mr. Six.

Mr. TODD (Peoria). There is just one other thing that the delegate from St. Clair (Trautmann) does not mention, and that is the fifteen months provision was made also to take care of the primary election allowing enough time to elapse before the next election to make the nomination under the present primary system, and this section as drawn and submitted by the committee has been carefully reviewed by a great many of the State officers and drawn with the intention to cover all the contingencies that might arise when vacancies occur, and I think we should abide by the action of the committee, taking into consideration the time which has been spent, rather than the amendment, without having an opportunity to thoroughly digest its meaning and the effect that might be brought about by adopting it.

CHAIRMAN CRUDEN. The question now is upon the adoption of the amendment offered by Delegate Six.

(Amendment lost.)

Mr. TRAEGER (Cook). I move the adoption of section nine.

(Section nine adopted.)

Mr. DAWES (Cook). I would like to propose an amendment to section ten by inserting: "all regular final election days shall be legal holidays."

Mr. DOVE (Shelby). As a substitute I would like to insert the words "primary and final" so that the section shall read that "all regular primary and final election days shall be legal holidays." I offer that as a substitute for the one offered by the delegate from Cook, Mr. Dawes.

Mr. LINDLY (Bond). I think that ought not to prevail, because all through this proposal they have avoided any reference to primaries, and I think that ought not to be inserted here, and have the one holiday for the one general election day.

Mr. DOVE (Shelby). Was the purpose in avoiding all reference to primaries to have no primary days?

Mr. LINDLY (Bond). No, to leave it to the General Assembly.

Mr. SHANAHAN (Cook). It wouldn't be a great hardship on the business interests of the State to tie up two holidays a year. It is absolutely unnecessary to make a primary day a holiday. If you make the general election day a holiday, it is all that is necessary.

CHAIRMAN CRUDEN. The question now is on the amendment of the delegate from Shelby, Mr. Dove.

(Amendment lost.)

CHAIRMAN CRUDEN. The question recurs now on the amendment offered by the delegate from Cook, Mr. Dawes.

(Amendment carried.)

Mr. MORRIS (Cook). I move that section ten as amended be now adopted.

Mr. MICHAL (Cook). The last time this matter was up for discussion before the committee, I sent up to the clerk an amendment, and I would like to have that amendment read and acted upon by this committee without any further discussion of the proposition, the abolition of the direct primary in the State of Illinois.

THE SECRETARY (Reading). Amend section eight by adding at the end thereof the following: "The General Assembly shall pass no law for a direct primary election except for the selection of delegates to nominating conventions."

Mr. MORRIS (Cook). A point of order. The point of order is, we have considered section eight and have passed to section ten, and the motion has no application to the matter before the house, namely, the adoption of section ten as amended.

CHAIRMAN CRUDEN. The point of order is well taken. The question is on the adoption of section ten as amended.

(Section ten adopted.)

Mr. MORRIS (Cook). I desire to make a motion, and before doing so, so that the members of the committee may understand, I would like to say a word or two preliminary. Section six was adopted with an amendment authorizing the General Assembly to add additional qualifications. It occurs to me, Mr. Chairman, that probably we did not sufficiently consider the importance of that amendment, and to the end that we may at least attempt to obtain a little further consideration on the matter, I move you that the vote or motion adopting section six as amended be reconsidered.

Mr. HULL (Cook). The amendment that was adopted was one offered by me. I would have no objection at all to the reconsideration of the vote by which the section was adopted, and I am not sure but what I would be willing to go along with the delegate from Cook in what is to follow, that is, he probably proposes to take out that amendment. Considerations have been suggested to me which might make it seem possible there would be objection to the section as adopted, which would possibly outweigh the value of the section as adopted. I am referring more particularly to the amendment to the section adopted, and for that reason I would offer no objection.

CHAIRMAN CRUDEN. The question now is upon the motion of Delegate Morris from Cook county that the vote by which this section was adopted be reconsidered.

Mr. HAMILL (Cook). Is a motion to reconsider now in order?

CHAIRMAN CRUDEN. We so understand it.

(Motion prevailed.)

Mr. TODD (Peoria). I move you, Mr. Chairman, and gentlemen, we adopt section six in the form reported by the committee.

Mr. WALL (Pulaski). I understand that that cuts out the phrase "read or write the English language."

CHAIRMAN CRUDEN. Yes, sir.

Mr. DUNLAP (Champaign). Point of order. The motion is not in order because prior to that we would have to consider these various amendments, the vote by which they were adopted and vote them down. The point of order is, that the gentleman's motion to adopt leaving out all these amendments that have been made is not in order. We would have to go in reverse order.

Mr. MORRIS (Cook). I agree that the gentleman's point of order is well taken. It strikes me there is no question about it at all. Therefore, I move you to reconsider the motion adopting the amendment providing this "shall not preclude the General Assembly from adding additional qualifications," and the words "read or write the English language."

(Motion prevailed.)

CHAIRMAN CRUDEN. The question is now on the adoption of the amendment offered by the delegate from Lawrence (Gee).

Mr. TRAUTMANN (St. Clair). It seems to me this amendment should be adopted. It applies to officers, and not voters, and I think if anybody is going to hold office in Illinois he should be able to read and write the English language.

Mr. BRANDON (Kane). I did not intend to say anything more about this, but since the statement just made I feel I should add a few words. Is it true that we are so ignorant in the State of Illinois that we have to put in our Constitution a provision to prevent our people in this State from electing illiterate people to office? Is it a fact that we would advertise to the world that the voters of Illinois are so low, such poor judges of the fitness and qualifications of their officers that we have to set up a limitation between the voters of this State and the people who hold office for them to prevent them electing to office people who cannot read or write the English

language? That is one way to look at it. Since that action I have talked to a great many people in this State about that question. To me one of the most disgraceful characteristics of the American government is the abuse that has followed under educational provisions. They have to be interpreted. I was in Greensboro, North Carolina, the other day; I have told this story before, but it is a true story, and if you will pardon me taking the time I would like to repeat it. The city judge of Greensboro, North Carolina, is a friend of mine, a fine old fellow, and I was talking to him about the educational qualifications for voting and office holding in North Carolina, and the language in their Constitution is identical with the language proposed here. He said "Well, we have some trouble once in awhile." He said "The other day a man came down to Greensboro, a graduate of Harvard University, and he knew when he came into this State and sought suffrage that he would be required to pass an examination under the provision of the Constitution, which read that he must be required to read any section of the Constitution of North Carolina, or to write any section, and that implies all, if the Justice of the Peace who conducts the examination in that State sees fit. So this old justice who was an illiterate old fellow, asked this gentleman to read the Constitution of the State of North Carolina, and in perfect poise of voice as one who has been trained in the department of elocution for years at Harvard, he got up and read perfectly, as well as any human being could enunciate, the entire Constitution of the state of North Carolina, and then the old justice said, "Now, write it," and he sat down and in the finest penmanship presented a perfect piece of craftsmanship and turned over to that justice the Constitution of the state of North Carolina, and the old justice who could hardly read and write himself said, "Well, your readin' is pretty fair, and I don't find much wrong with your writin', but I got to turn you down on account of your puncteration." As Judge Collins told me, they were sometimes embarrassed by the necessities to which they had to go. Now, I do not believe in the State of Illinois we are so impressed with the racial question we have to put ourselves in a class with the Carolinians or the southern states. Somebody will have to interpret this proposition, somebody will have to be given discretionary power to say how much of the English language a candidate for office must be able to read and how much of the English language that candidate must be able to write, and how well. If I am the one selected to exercise that discretionary power and say this man that is running for office, because he does not read enough of the English language, or read it well enough, shall not qualify, or he does not write enough of the English language and therefore he is disqualified, have we come to the point we have to go back and disgrace this State with a libel of that kind in the Constitution? Since this session I talked to a man, formerly one of the public officials in the State, and he happened to use the illustration of Macoupin county, because I have been down there. He says "there are many good old farmers in our county, pioneers who have lived there for thirty, forty or fifty years, men who are now old, respected, heavy property owners in that county, but because of conditions which surrounded their early life, are not today able to read and write the English language; some of them are heavy tax payers." I say to you, gentlemen, if by this provision you kept one honest, well-intentioned property owner from public office, you would do an injustice to a helpless minority in this State. I do not believe it is necessary for us to disgrace the State, as I regard it, by the inclusion of this section. We should depend on the integrity of the citizens of this State to elect fit people to public office and not to include this sort of a provision. (Applause.)

Mr. TRAUTMANN (St. Clair). Just a few words. This section six provides "that no person shall be elected or appointed to any office in this State, civil or military, who is not a citizen of the United States and who shall not have resided in this State one year next preceding the election or appointment." Now, I see no objection to that language, that he should be a citizen of the United States or resident of this State one year, and we passed that the other day. When the amendment was offered requiring that

the voter or elector should be able to read and write the English language, I voted against it, but when it comes to making a provision, a qualification with reference to an officer, either elective or appointive in this State, I believe and always have believed that he should be able to read and write the English language. Let me tell you what happened in this city, right here in the City of Springfield, less than two years ago. There was a man holding office by appointment of the civil service of this State and drawing his money who was not a citizen of the United States, but who was representing the Italian Government, and I am against that kind of practice. We have got enough American citizens to hold these offices; that is what that led to, and if this provision had not been in your present Constitution he would be still holding his office. Is it any more wrong to say that he should be able to read and write the language of the State if he is going to hold an office? I do not think so. I do not think it should apply to the electors, but it should apply to a man who is going to perform the duties of an office. I do not care whether it is elective or appointive, he should be able to read the English language and write it; the qualifications whatever they may be, can be provided for by statute.

CHAIRMAN CRUDEN. The question is on the adoption of Delegate Gee's (Lawrence) amendment.

(Amendment adopted, 47 to 10.)

Mr. MORRIS (Cook). The question now recurs, Mr. Chairman, on the amendment offered by the gentleman from Cook, Senator Hull.

Mr. HULL (Cook). The amendment that was finally adopted was my amended amendment.

Mr. MORRIS (Cook). I trust that this committee will not add the words which have just been read to section six, but will leave the section as reported by the committee. I do not think it wise to leave to the General Assembly the right to additional qualifications, other than those contained in the Constitution, and this provision for holding office, not that I am wholly unwilling in all matters to trust the General Assembly, which is not the very best, and which is not the very worst; it is made up of citizens of this State, and very good citizens at that, but when it comes to designating and fixing the qualifications for holding office, I esteem it to be a provision which ought to be dealt with by the people themselves. It was an axiom of one of the sages of this big city that the rights of the people are safe in the hands of the people, and when we have fixed certain qualifications for the holding of an office, ratified by the people, it ought to be without the power of any General Assembly to add to or to take from, and therefore I suggest to this body that more harm may possibly arise by reason of conferring this power on the General Assembly than good could come. I can imagine, and I assume that most of the other gentlemen here can imagine, some very peculiar qualifications that might be added. I do not necessarily say they would be, but might be added by the General Assembly under certain pressure that would not meet the general approval of the people. Most every Constitution of every State provides for the general qualifications and indirectly takes from the law making body the power to add additional ones, and I think the section as reported by the committee will answer all practical purposes in this State.

Mr. MOORE (Macon). Do you recognize the General Assembly has power to create certain offices under the Constitution of the State of Illinois, and why would it not be proper for the General Assembly to prescribe qualifications for the offices which they create?

Mr. MORRIS (Cook). That question cannot arise under the consideration of this section, but whether they have the power or not, in my judgment, would remain an open question as to offices not constitutional. This, in my judgment, is limited solely to Constitutional offices, or offices created by the Constitution.

Mr. HAMILL (Cook). If I remember correctly when this amendment was offered, the gentleman called the attention of the committee to some decision or ruling of the Attorney General to the effect that this clause might allow the legislature to prescribe the qualifications obviously neces-

sary for the filling of the office. My memory is not perfectly clear upon it, but I will ask Senator Hull if I am correct on this.

Mr. HULL (Cook). Yes, your memory is right.

CHAIRMAN CRUDEN. He cited the McCormick case in the City of Chicago.

Mr. HULL (Cook). And the opinion of the Attorney General with reference to the qualifications of the State's Attorney, that a candidate for that office must have been admitted to the Bar.

CHAIRMAN CRUDEN. The question is upon the adoption of the amendment offered by Delegate Hull as amended.

(Amendment lost.)

Mr. TODD (Peoria). I move you we now adopt section six as amended.

Mr. SUTHERLAND (Cook). I would like to ask whether the following language could be inserted in section six after the word "who" in line three of the section as it is in the Constitution, "no person shall be elected or appointed to any office in this State, civil or military, who is not a citizen of the United States, and who, except as otherwise provided by law, shall not have resided in this State one year next preceding the election or appointment." The point desired by the delegate from Cook would not incur the objections raised to his amendment.

Mr. HULL (Cook). Is it the understanding of the members of the committee that the qualifications prescribed in the Constitution here in this section of the Constitution relate only to Constitutional offices?

Mr. MORRIS (Cook). That is my understanding. What is yours?

Mr. HULL (Cook). I supposed that were true; I had hoped that would be the construction put upon it. I am raising this question because we have civil service laws and examinations, appointments are made from lists of eligibles in those examinations and I do not know whether this section has been taken into consideration in connection with the filling of those offices under the civil service system. If it related only to constitutional offices, that objection would not apply.

CHAIRMAN CRUDEN. The question is on the adoption of the motion by Delegate Todd (Peoria) that section six be adopted as now amended.

(Adopted.)

CHAIRMAN CRUDEN. A motion is now in order for the adoption of the entire article.

Mr. GALE (Knox). I desire to offer the following amendment to the article, to be known as section eleven. I want to read it and make a little explanation. "Beginning in 1927, there shall be imposed on each citizen over twenty-one years of age a tax of five dollars to be levied and collected by the proper authorities in addition to and in the same manner as other taxes, which sum shall be remitted when such citizen shall file with the officer whose duty it is to extend the tax an affidavit saying that such citizen voted at every election during the year for which the tax was levied, or was disqualified as an elector during the year for which the tax was levied, or was disqualified as an elector for some reason other than for failure to register as a voter, or was prevented from so voting by illness or absence from home. Falsity in such affidavit shall be punished as perjury. The money so collected shall be for the benefit of the school fund of the school district within which such citizen shall reside."

Mr. Chairman, it seems to me that the most important work that this Convention could by any possibility do has been touched upon this morning. If we can get in the State of Illinois one election a year, there to compel the citizen to vote at such election, and if we can devise some means which shall be self executory which will induce the citizen to vote, we have done the greatest work that a Convention can do, because Mr. Chairman, it does not make any difference how bad your Constitution is or how bad your laws are, if you get eight per cent or more of the citizens to vote at every election, your State is safe. And Mr. Chairman, I offer this amendment because I believe in a penalty which is not such a large penalty that it would disfranchise the citizen, or would be a hardship on him, or make him indignant at his government because such a penalty is imposed, and that is the sort

of penalty that has been proposed. I believe that this penalty will be incurred sometimes by a citizen, but when a citizen has incurred it, he will say to himself, "what a bonehead I was not to vote at that election. Hereafter I will vote." I think furthermore a penalty of this sort for not voting must be self executory. There cannot be something which will clog the courts with actions to recover penalties; there ought to be something which shall not absolutely disfranchise a large class of citizens, and I do believe, Mr. Chairman, that a small penalty which will leave the citizen feeling right about his government will accomplish the result aimed at and he will not fail the next time. I urge the adoption of this section as section eleven of the committee's report.

Mr. HAMILL (Cook). I rise to a point of order. That the section proposed is not germane to the article on suffrage. It imposes a tax and is not germane to the article on suffrage.

Mr. GALE (Knox). Before there is any ruling on that, I simply wish to say it does import to impose a tax, but a tax as a penalty for failure to observe the provisions granted to the citizen by this section, and therefore, Mr. Chairman, it seems to me that this is the article of the Constitution in which such a provision should be, if anywhere.

CHAIRMAN CRUDEN. The Chair rules that the point of order is well taken.

Mr. GALE (Knox). I appeal from the decision of the Chair.

Mr. LINDLY (Bond). On this point of order, I would like to be heard just a second. I believe the point of order is not well taken, because it is not a revenue proposition. It simply provides that there will be a tax of five dollars levied and makes that a penalty. It can be returned to them on the proper showing, and it does not belong in the revenue section at all, and I believe the Chair is wrong in his ruling on the point of order.

CHAIRMAN CRUDEN. The question is shall the decision of the Chair stand as the decision of the Convention?

(Ayes 32, noes 32.)

Mr. MORRIS (Cook). Then, Mr. Chairman the appeal is lost. It takes an affirmative vote to overcome your decision.

Mr. HAMILL (Cook). I am advised by the secretary that the vote stands 32 to 32. I submit that sustains the ruling of the Chair.

Mr. TRAUTMANN (St. Clair). In order to sustain the Chair, you must have an affirmative vote.

CHAIRMAN CRUDEN. Notwithstanding the vote has been taken, the Chair will now reverse his decision.

Mr. DOVE (Shelby). I offer an amendment to Proposal 351 by adding a new section known as section eleven.

Mr. GALE (Knox). Point of order. The question now is on the adoption of the amendment offered by myself.

Mr. DRYER (Montgomery). On this section offered by the delegate from Knox (Gale), I desire to say a few words, not having burdened the record of this Convention with very many words. I think in adopting sections eight, nine and ten of this article we have made undoubtedly a step forward toward inducing the voters of Illinois to attend the elections, but I am convinced we have not gotten very far from the shore and I am afraid that section ten will not induce the voter perhaps to go the polls, but may induce him, having a legal holiday, to take his shotgun or his fishing pole and take that holiday as he might choose, and I believe it is vital that we write something into this Constitution to call the attention of the voter to the fact that it is important that he use this holiday in a manner intended by the makers of this Constitution. So, and in order that we have the results that are sought for by the members, each and every one of them in this Convention, in their often expressed desire that every voter in the State of Illinois exercise the right of franchise, I believe we ought to write in this Constitution something that will guide and be an indication to the voter that he must do the things that the Constitution gives him the right to do, and I agree heartily in what the delegate said when he introduced this section, and asked that it be made a part of this article, when he said "we will have

splendid officers, and I won't be afraid of the initiative and referendum if every man and woman who has the right to vote in the State of Illinois exercises that right on each election."

Mr. CARLSTROM (Mercer). I just want to call the attention of the gentleman to one article that appeals to me, and that ought to settle the question: we are always willing to "let George do it," that seems to be a common practice of men, to shift the burden. I think this is an excellent opportunity to shift the burden. Every man in this Convention has been a candidate for office; I believe it is an excellent thing instead of having to pay five dollars to go out and get a fellow in now that he should pay five dollars if he does not come in; I think every man who has been a candidate for office ought to appreciate the force of that argument. I have not had time to examine the text of this amendment, but I do believe it is consistent with and absolutely in line with the progressive attitude of the Convention and of the previous sections we have adopted, and I believe with Judge Dryer (Montgomery) that if you will make it a holiday that will not increase the number of voters unless you provide some method of requiring that a man shall exercise the right of franchise. Certainly we ought to be willing to subject ourselves to some penalty if we do not exercise that high right and privilege of the American citizen.

Mr. BRANDON (Kane). I move to amend by substituting for the word "every" the word "regular final."

Mr. GALE (Knox). I think the suggestion of the delegate from Kane is well taken, and I will accept that as an amendment.

Mr. ELTING (McDonough). Do you not think the proposed amendment would violate section 18 of the Bill of Rights which provides that "all elections shall be free and equal?"

Mr. BRANDON (Kane). I do not think so at all.

Mr. TRAEGER (Cook). Do I understand in penalizing a man in your proposition that every citizen, both male and female, should pay the sum of five dollars whether they vote or not?

Mr. GALE (Knox). If he does not vote.

Mr. TRAEGER (Cook). How are you going to determine that?

Mr. GALE (Knox). By requiring him to file an affidavit

Mr. TRAEGER (Cook). I understand I pay the five dollars whether I vote or not, and then upon proper affidavit it is returned to me.

Mr. GALE (Knox). You do not have to pay if you file that affidavit.

Mr. TRAEGER (Cook). Then the information will be received through complaints; will it be necessary to revise and go over the whole polling list to determine whether I have voted or not?

Mr. GALE (Knox). No, sir, your affidavit would determine that.

Mr. TRAEGER (Cook). I am coming back to the original point. I must make an affidavit whether I have voted or not?

Mr. GALE (Knox). Yes.

Mr. TRAEGER (Cook). I believe in penalizing but I think this would involve a great deal of hardship not only to the party who voted but also to the municipality that has to handle this matter, and it would naturally require a large force.

Mr. GALE (Knox). It may a little but it does not seem to me it would require very much to receive those affidavits, and that is all they have to do.

Mr. TRAEGER (Cook). I am not opposed to penalizing, and I believe every American citizen ought to vote, but the question with me is, shall we organize through that a department and make expenditures that would have to be met by the tax payer, that would be more than would be received out of it?

Mr. FIFER (McLean). Mr. Chairman and gentlemen, it seems to me if this amendment is adopted it will impose a very great hardship upon all the voters of the State of Illinois. As I understand the proposition, that after every election every voter in the great State of Illinois would be required to file an affidavit whether he voted or not, with the officer whose duty it is to extend the taxes upon the books of the county, and that is the county clerk

as everybody knows. Now, just consider for a moment the great expense, to say nothing of the loss of time that every voter would be required to incur in making the affidavit. It would be necessary, of course, whether he voted or not to go before an officer who is authorized to administer oaths and swear to an affidavit which he must file with the proper officer that he voted, or if he failed to vote give a sufficient reason for his not voting. Now, that in all probably would cost the people millions of dollars every year, and in my judgment it would result in no good. It would make more cumbersome what we already have, a very cumbersome election system in our State, and in my judgment it would be a very great mistake to impose this hardship, this expense, this loss of time upon both alike, those who vote and those who neglect to vote. I would oppose it if it only affected those who did not vote, because there are so many in the State at every election for whom it is impossible, speaking within the bounds of human reason, to go to the polls, and it would require of them an affidavit which would cost money, in addition to the time. It is the old question over again, you can lead the horse to water but you cannot compel him to drink. It is up to the voter finally to decide whether he will exercise the right or whether he will not, and I believe the whole proposition is a mistake.

Mr. DAVIS (Cook). It occurs to me that the discussion on the merits of the proposition involved in this amendment have been discussed on a prior occasion, and the particular features of this amendment have been discussed fully at this particular time. May I make the motion that the debate be closed and that a vote be taken on the pending question?

Mr. DOVE (Shelby). May I offer a substitute without any remarks before your motion is made.

Mr. DAVIS (Cook). Why not vote on one proposition at a time?

CHAIRMAN CRUDEN. This question was discussed more than anything else before the committee. I have been on record as being opposed to the penalty in any form on this question. During the campaign before I was elected I stated to the people that if there were things adopted by this Convention that I felt obliged not to accept, I held in reserve the right to oppose it on the date of ratification, and if this is adopted I shall be in a position to do that. The question came up how it could be enforced in the City of Chicago; that would cost a great deal of money. I introduced a proposal here with reference to the exemption of personal property from taxation. I made inquiry of the board of assessors in our city why they agreed each year on the elimination of certain schedules below three hundred dollars; I thought my proposal would legalize what they did now without any law. I am informed by the board of assessors that that is done because it costs more money to extend the tax and collect it than what it amounts to. If this penalty was followed it would cost more money to collect it than the amount of it. It is the same proposition, and amounts to nothing. I want to be on record against penalizing the voter for failure to vote.

Mr. GALE (Knox). If this proposal were considered as a means of raising revenue, as Chairman of the Revenue Committee, I would not stand sponsor for it. It is not introduced for the purpose of raising revenue, it is introduced for what seems to be a far higher purpose, for the purpose of getting a complete or nearly complete vote of the citizens of the State of Illinois, and if it costs the State of Illinois a large amount of money, Mr. Chairman, it is worth it. I say to you it is the salvation of representative government to have the citizens go to the polls on any proposition. This may not be the best, but any proposition which will help to bring that about is a proposition it seems to me this Convention ought to endorse regardless of what the cost may be, and Mr. Chairman, regardless of what the inconvenience to some individual may be.

Mr. FIFER (McLean). Would it not be just about as well for a man not to go to the polls at all and vote than to go there simply to escape a fine of five dollars? What would his vote be worth?

Mr. GALE (Knox). That is the question which is often asked, and I think a citizen is a better citizen if he does not do more than go to the polls

and just look at the ballot than if he stays away from the polls and does not know what is going on. He is a better citizen if he goes to the polls and participates in the choice of the representatives who shall govern him than if he stays away and complains about the officers who are elected.

CHAIRMAN CRUDEN. The question now is upon the motion of Delegate Davis of Cook to close debate.

(Motion prevailed.)

CHAIRMAN CRUDEN. The question is now on the adoption of the amendment offered by the delegate from Knok (Gale).

(Ayes 16, noes 42. Amendment lost.)

Mr. MICHAL (Cook). The amendment that I sent to the desk before I ask to be incorporated as section eleven, which has to do with the abolition of the primary, and I want to be very brief in my explanation for my motive. I want to say to the gentlemen in all sincerity that we ought to get back to the old soap box primary. We ought to bring the political situation closer home, as it were. We are today confronted with a spectacle that is a serious reflection upon the electorate of this great country. The press accounts, if I quote them correctly, state that one of the leading aspirants is spending through his cohorts and through his managers a tremendous amount of money in order to get a preferential expression at the hands of the electorate where they have a primary for presidential candidates. That is fundamentally wrong, that is a thing that the people ought to take cognizance of. That is a thing we have in our power to remove and the only way to remove that is by abolishing the direct primaries. I venture to say that in the City of Chicago, where I hail from, citizens are tired of the direct primary. They hope that some remedy will be brought about to abolish that situation. I call upon your own wide and extensive experience, Mr. Chairman, to support me, in this proposition as to whether or not it is not the wish of the people of Cook county to abolish the direct primaries. I think we ought to show we have red blood. We have gone through the direct primary since 1908. We have given it every opportunity, all the time that is necessary and a great deal more, to demonstrate its usefulness, and we are confronted with the following situation, a situation that a poor man is not in a position to compete with a man who has a barrel of money. It was originally intended that this Primary Act should aid the people in nominating their candidates, but we have the sad spectacle now of less than twenty per cent of the people exercising that right. Why involve this great State and the tax payers in such tremendous expense? It is a wicked law, an unuseful law, a thing that is abhorrent to good citizenship, a thing that has proved itself to be utterly nil and of no benefit to anybody except printers, bill posters and political haranguers. Mr. Chairman, and gentlemen, I take it government of the people is not to be predicted upon the expenditure of vast sums of money, and that applies to the humble candidate for constable as well as the candidates for the exalted position of President of the United States. I can not see anything at all that justifies that being retained on the books. The United States Senate has taken cognizance of that by resolution offered by that distinguished Senator Borah to inquire into the expense account of one of the leading aspirants for the office of president. I say that is a sorry spectacle and does not reflect credit upon the citizens of this country in the eyes of the world. Let us start right here to abolish that wicked piece of legislation, and I move its adoption. I want to say further I do not want to appear to be hypercritical and captious, but this is a thing in which I am sincerely interested. I serve notice now upon this Convention that I am going at the proper time to demand a roll call to see how we stand on this thing, a great principle in legislation.

(Motion lost, 34 to 23.)

Mr. MICHAELSON (Cook). I move the committee rise and report progress.

Mr. DOVE (Shelby). Before the adoption of the entire article, I have an amendment which I wish to offer, to be known as section eleven: "Every qualified elector shall register and devote at every general election and no person shall be elected or appointed to any office in this State, civil or military,

who has been guilty of wilful and deliberate failure to vote within two years next preceding such election or appointment. The General Assembly shall pass appropriate laws making this section effective and may provide additional punishments for wilful and deliberate failure to vote.

Mr. KERRICK (McLean). I offer as a substitute for the amendment offered by the delegate from Shelby (Dove) the following: "The General Assembly may pass laws conducive to the full exercise of the right of suffrage by all persons possessing such right."

I have become convinced on the vote taken here, not only today but on numerous occasions, that this Convention will never be brought to agree with me and with my very good friend over yonder (Dove) by voting in this Convention anything that smacks of compulsion in the matter of voting. I believe in some compulsion, and I wish this Convention felt the same way, but that is hopeless in my opinion, so I thought it best to put in a little mild exhortation so we at least will have something in the Constitution of the State of Illinois which it is hoped that hereafter the children who attend our schools will be taught to read, and it is hoped that public sentiment from now on be more insistent in inculcating in the public mind in general the absolute need—the overwhelming need of those who constitute this government, in fact, and by that I mean the men and women who by virtue of the Constitution as it will be and as it now is, are the real government—the absolute need of those people exercising their part in creating laws under which we are to live and by which we are to be governed. I agree that this amendment is not worth anything in the way of actual compulsion, but it is worth something to have it understood that we who are now framing the fundamental law under which this State may live for many years to come recognize the supreme importance that the people who have the right to vote exercise that right, and making it mean something. Now, if we are going to reduce the number of elections and the burdens and the expense complained of, they not only have no right to complain of some provision in the Constitution, they ought to be pleased we have not forgotten something in the Constitution substantially of what is embodied in the language of the substitute.

Mr. DAVIS (Cook). I again move that debate be closed, and a vote be taken.

Mr. DAWES (Cook). The matter now under discussion is of such great importance that we ought not to ask that debate be closed for the mere purpose of getting away and a chance to take an early lunch. I would like to be heard on this question for a moment, although I have heretofore addressed the delegates on this very subject. There is ample evidence of a sentiment in this State and in this Convention that something ought to be done to lift the heavy burdens that are borne by government by reason of the neglect of very many of our citizens in exercising their right to vote. It has in the past imposed many burdens and hardships upon us. The proposal that has been suggested is so mild and so gentle that it is certain if we cannot accede to this we must reject all other proposals that it lies in the power of the State to exercise any control whatever in connection with this great gift that means so much. We live under a representative form of government, under which we gather into the legislative halls the intelligence and the capacity to consider and the ability to judge of our great questions, and we look to the people and to their vote to tell us what the feelings of the people are, whether they are satisfied with the form of government. Men are not ruled by reason or by logic or philosophy, men are ruled by their emotions, and when we call upon the people for their vote on the questions we are asking them for an expression of their feelings, testing the State of their satisfaction in their government. And the judgment of the intelligent is better than the judgment of the ignorant and unworthy, but the feeling and the sentiment and the satisfaction of the most humble of our citizens is upon a plane of equality with that of the most enlightened, and here we have the means by which we test the satisfaction of the people with means for that expression from all who have the right to give that expression. The man who votes occasionally is a greater burden upon the country than the

man who never votes, because the man who votes occasionally is the man who votes under the stress of excitement, and his vote is not of any value to us. If we can turn him from an occasional voter to an habitual voter, then we have at all times a test upon his feelings, and that is what it is government seeks when it offers the vote to all the people. We must think seriously of these changed conditions that present themselves to the State and the government when all citizens are given this opportunity, and when some of them have not had the training and the preparation that others have had. I favor the adoption of the proposition of the proposal as amended by the delegate from McLean (Kerrick). (Applause.)

Mr. HAMILL (Cook). On the occasion that this matter was under debate before I listened, as did the rest of us, with much interest and instruction, to the argument made by the eloquent gentleman who has just taken his seat. I did not on that occasion attempt to reply to him at any length, but merely in a pleasant way alluded to one of his figures of speech. I quite agree with him that the subject now under debate is one of great seriousness. I regard it as serious because it seems to me that the proposal for compulsory voting is a proposal to depart from the theory of democratic government. Let us stop, gentlemen, and think what government is for first and then why we choose a democratic form of government in order to achieve that end. Opinions differ and they will differ in this chamber as to the ultimate purpose of government, but I have no hesitation in saying, Mr. Chairman, that to my mind you can put no higher purpose for government achievement than individual liberty. If government is not instituted to preserve to each man individual liberty then I depart from the theory of that government. We yield to the government just so much of our personal liberty as is necessary to secure individual liberty to all the other citizens of the State, and only so much, but now you start off with the proposal you will secure individual liberty by denying individual liberty and saying to the man that the right of franchise is not a right but it is a duty and we will compel you to exercise it.

Why, gentlemen, if you are going to have compulsory voting you have got to change the phraseology of your literature. You talk about the right of franchise, you have got to change that and say the duty of franchise. The same thing cannot at once be a legal right and a legal duty. It may be a legal right and connote a moral duty, but it cannot, in sound reason be at once a right in law and a duty in law. The correlative of right is a duty. If I have a right, someone else owes me a duty. If I owe a duty, someone has the right to demand that I perform that duty. I cannot have a right to vote and have someone else say to me, "You must vote." It is a contradiction in terms, and so I say, Mr. Chairman, that this whole talk of compelling a vote is a denial of the very purpose of our government. Now, if I am right in suggesting the sound theory of government, it is that preservation of individual liberty is its aim. The second question is this: why do we have a democratic form of government to accomplish that end? Upon what theory does that rest? If it does not rest, Mr. Chairman, upon the assumption that in the individuals composing the State there resides sufficient interest and intelligence to govern themselves, then the theory is wrong. If the people of our great country do not care enough to inform themselves and express themselves then we are on the wrong track gentlemen. Let us abandon our democratic form of government. Let us say we have made a mistake, that the individuals are not sufficiently interested to inform themselves and to express themselves, that the attempt at self government is wrong, we fail. I believe we are still on the right track. I refuse to assert, as some do, that democratic government has been found to be absolutely the only form of government, and that it will last for all times. I believe we are still in the experimental stage. We have not tested it under all possible adversities, but I have faith we are right. I believe it is sound, because I believe it is founded in a sound principle, that the average man when he has imposed the duty of government upon himself is sufficiently interested and has sufficient intelligence to govern himself well, and I depart from any theory which says in order to govern yourselves well we will make you govern yourselves well. (Applause.)

Mr. KERRICK (McLean). I believe that a man who has been given as a special right the right of suffrage which may enable him to determine whether this man or that man should be President of the United States of America does not have the right not to vote. He owes it to me and he owes it to you and he owes it to every other citizen to vote. It does not lie within his rights to say that he will vote whenever he pleases and not vote whenever he pleases. There is such a community of interest between one citizen and another that the neglect of one citizen to do the duty as one who has a right to cast a vote to determine how an election shall go or not go, there is a right concurrent with that which is the property of the man who does discharge his duty and who goes and votes that is greater than his right not to vote. I contend as in the beginning that it is not in the abstract the right of any citizen to say he will vote when he chooses and not vote when he pleases. He owes something that he cannot pay in that way to every other citizen of the nation, of which he ought to be proud of having the privilege of being a part. He is ignoring his right, he is absolutely endangering the whole governmental fabric by not exercising his right, and as I said before, I would be in favor of compulsion to the extent that there should be some way of compelling people who have been given this inestimable privilege, a thing I prize which cannot be compared to anything else of value, and ought to be the proudest possession of every American citizen, as something no man should ignore or apologize or excuse himself from exercising, I think it should be a reflection upon the intelligence and upon the patriotism of this body engaged as it is at this time in framing the basic law of this State to let this matter go as if we did not consider it of enough importance to be even mentioned in the Constitution of this State. We have gone through many matters in the course of considering the right of suffrage. We are giving one-half the people suffrage who never had it before, and up to this time perhaps they are excusable because it is a novelty, that they did not vote regularly. They vote impulsively; on occasions they are all there and on other occasions very few of them are there. If for no other reason it would be well when we are starting in with this new army of voters that they know something of the catechism of voting, and the importance of voting, so instead of voting now and then they will vote regularly as everyone ought to. I recall in my own State within the last ten years the city went dry. On that occasion the women did not sleep, they did not rest, they hardly stopped to eat. They were here and there and kept the telephones busy all the time. I heard one gentleman say he had not had one night's rest for a month because of the noise his wife and her friends made. If they were not in the house talking, why, the telephone was going. The city went dry by a large majority and when the time came around that another vote would be taken and the wets were of course ready with all the paraphernalia and the legal provisions so that the votes could be taken, the city went wet again. I met the next day two gentlemen who seemed to be very downcast and also very much surprised, and they were trying to figure out how it happened. On the West side of Main Street the women had voted, but on the East side of Main Street for the most part, they had been playing bridge whist, and the lady that was so industrious in the other campaign was disappointed in the result of the election. I said to them that the women had made the city dry and they had also made it wet. I said they did not vote. One of the gentlemen went home that night very much downhearted and found his wife reading the newspaper. The very first thing he said was, "The town has gone wet," and his wife looked up and said, "Has it," and never looked up again. I speak of this simply for the purpose of showing we have a new element that perhaps we cannot count on as much as before, and something should be done. It ought to go out in the newspapers that we had put a provision of some kind in the Constitution recognizing the great necessity and desirability of people voting and exercising the right of suffrage.

Mr. DAVIS (Cook). I move that the debate be closed and that we proceed to take a vote on the pending question.

(Motion prevailed.)

CHAIRMAN CRUDEN. The question recurs now on the substitute offered by Mr. Kerrick to the original amendment offered by Mr. Dove.

(Substitute adopted, 35 to 21.)

Mr. DUNLAP (Champaign). I move the adoption of the entire article as amended.

(Section adopted.)

Mr. DAVIS (Cook). I move the committee do now rise and report progress.

(Motion prevailed.)

(Chairman Woodward presiding.)

Mr. CRUDEN (Cook). Mr. President, the chairman desires to report that the new section under consideration of the Suffrage Article has been adopted with amendments.

PRESIDENT WOODWARD. The question is on the adoption of the report of the chairman of the Committee of the Whole.

(Report adopted.)

Mr. SHANAHAN (Cook). I move the Convention do now recess until four o'clock this afternoon.

Mr. SMITH (JoDaviess). Before that motion, I would like to state to the delegates that the Article on County and Township Government has been printed and returned and is now in the postoffice, and since it is to be taken up the first thing next week the delegates may like to get a copy of the printed article for their consideration.

Mr. SHANAHAN (Cook). I made the motion, thinking that matter was to be taken up this afternoon. If not, a motion for an adjournment until Tuesday morning would be in order.

THE PRESIDENT. If the Chairman is not ready to take the matter up, the Convention should adjourn until next Tuesday.

Mr. SMITH (JoDaviess). It was my understanding that we would take up this matter at the first session next week, providing we were through with the article on elections, and conforming to that plan I do not think our committee is quite ready to take up this matter, and I believe it would be more satisfactory to them and possibly the delegates to postpone the consideration of this matter until the first session next week.

Mr. WALL (Pulaski). I think it is understood that this is not to be taken up until next week, and I think the motion to adjourn should be made to Tuesday morning, at ten o'clock.

Mr. SHANAHAN (Cook). I will change my motion to adjourn until ten o'clock Tuesday morning.

(Motion prevailed.)

Whereupon an adjournment was taken by the Convention to Tuesday, May 18, A. D. 1920, ten o'clock a. m.

TUESDAY, MAY 18, 1920.**10:00 o'Clock A. M.**

The Convention met pursuant to adjournment.

The President, pro tem, Mr. Shanahan, presiding.

Prayer by the Chaplain, the Reverend J. W. Ferris, pastor First Methodist Episcopal Church, Carthage, Illinois.

THE PRESIDENT PRO TEM. The Journal of Wednesday, May 12, 1920, having been printed and placed on the desks of the delegates, is now subject to correction. There being no corrections proposed, the Journal for May 12, 1920, will stand approved, and it is so ordered.

Whereupon the Convention proceeded upon the order of special orders of the day, reports of standing committees, reports of select committees, introduction, first and second reading of proposals, motions and resolutions, unfinished business, general orders of the day.

THE PRESIDENT PRO TEM. Under the head of general orders of the day we have the report of the Committee on County and Township Government. Mr. Smith, of Jo Daviess, chairman of the Committee on County and Township Government, will assume the Chair.

(Chairman Smith presiding.) (Applause.)

CHAIRMAN SMITH. The committee will please come to order. I would say, gentlemen of the committee, that the Committee on County and Township Government desires that one of its members read the report and make certain explanations in the reading, and during this reading if there is any part that is not understood we want the delegates to feel at liberty to ask any questions they may wish for information, not argumentative questions, but simply questions for their information. After this reading, of course, the report will be taken up by sections, read by the clerk and debated upon. I will ask Delegate Jarman (Schuyler), one of our committee members, to read this report with his explanation.

Mr. JARMAN (Schuyler). It has been thought best by the committee in presenting this report to the Convention to make a review of the report as a whole, and do this with reference to the provisions of Article X of the present Constitution. Therefore, in considering this matter I would be glad if the members of the Convention would turn to Article X of the present Constitution. You will also understand that the last section of this report states that it does not apply to Cook county. The section in Article X referring to Cook county was referred to the committee of this Convention on Cook county. It may be necessary hereafter to co-ordinate the work of the two committees, but that is a matter to be determined hereafter.

I want to say this further: All of the provisions of this majority report were not concurred in by all the members of the committee. It was understood that any member of the committee, though he signed the majority report, would have the right to suggest any amendments to this article that he might desire.

Section one of the report is the same as section one of the Constitution of 1870. The object of this section you will note is to prevent the dividing of large counties into small ones, and in case any county is divided, the county seat shall not be less than ten miles from any lines of the county or county borders to be divided. Therefore, that section will require no further explanation.

Section two is a combination of sections two and three of the Constitution of 1870, with a few slight changes. The subject of this section is the division of a county or the taking of territory from a county or adding territory to a county; and in each case requires a majority of the electors voting on the question of the county, and a majority of the electors voting on

the question of the territory taken from a county; it also provides that the territory taken from a county, in any case, shall be required to pay its proportion of the indebtedness of the county from which it is taken.

Section three of the Constitution of 1870 requires that no territory shall be taken from any county until a majority of the voters living in such territory shall petition for such division. This requirement is left out in the new section two; but the new section two requires a majority of the electors of the territory taken from a county, in addition to the majority of electors of the county. In other words, under the Constitution of 1870, to take territory from a county requires first, a petition of the majority of the voters living in such territory, and second, a majority of all the legal voters of the county, voting on the question. The new section two requires a majority of the county, and a majority of the electors voting on the question. The last paragraph of the new section two is the same as the last sentence of section three in the Constitution of 1870.

Section three. "No county seat shall be removed until the point to which it is proposed to be removed shall be fixed in pursuance of law, and three-fourths of the voters of the county, voting on such question, shall have voted in favor of its removal to such point."

This section refers to the removal of county seats. This section is the same as section four of the Constitution of 1870, except the new section requires three-fourths of the voters of the county, voting on the question, while section four of the Constitution of 1870 requires a three-fifths of the voters of the county to be ascertained in such manner as shall be provided by general law, shall be voted in favor of its removal to such point. In making the change from the voters of the county to voters voting on the question, we change the three-fifths to three-fourths. This section omits the last sentence of section four of the Constitution of 1870.

Section four is as follows: "Any county now or hereafter organized under a Board of Commissioners may organize under township organization whenever a majority of votes cast upon such question in such county shall so determine; and any county now or hereafter organized under township organization may organize under a board of commissioners whenever a majority of all the votes cast upon such question in such counties shall so determine and the election upon such questions shall be submitted to a vote of the electors of any county at a general election in the manner provided by law; and the affairs of counties shall be transacted under the respective organizations as the General Assembly may provide."

This section is intended to cover the subject matter of section 5 of the Constitution of 1870, with the necessary changes to make it applicable to the present conditions. The new section takes notice of the present organization of counties into township and commissioners' forms of government, and simply provides for the changing from one to the other, as provided in the Constitution of 1870. The last sentence of section 5 of the Constitution of 1870 is omitted in the new section as unnecessary.

Section 5. "There shall be elected at the general election on the Tuesday after the first Monday in November, 1922, and every four years thereafter in each of the counties in this State, not under township organization, three officers who shall be styled 'The Board of County Commissioners,' who shall hold sessions for the transaction of county business as shall be provided by law. The term of every such officer elected prior to the year 1922 shall expire on the first Monday of December, 1922."

This section is intended to take the place of section 6 in the Constitution of 1870. It omits the words "at the first election of county judges under this Constitution," and in place thereof inserts "at the general election on the Tuesday after the first Monday in November, 1922."

It provides for the election of three commissioners every four years, and that their term of office shall be four years, whereas section 6 of the Constitution of 1870 provides that one commissioner shall be elected each year, for the term of three years. Under the present provisions of section 6 of the Constitution of 1870, there is an election of a commissioner in odd number of years, when there is no other election in the county at that time,

and the change made avoids the expense of an election only for the election of a county commissioner in counties not under township organization.

It was thought by the committee that there was no advantage in electing one commissioner for three years, one in each year, over electing all three in one year. There are at present sixteen counties in the State under commissioners' form of government, and of course, eighty-five counties under township form of government.

Section 6. "In each county there shall be elected the following county officers at the general election to be held on the Tuesday after the first Monday in November, 1922, and every four years thereafter; a county clerk, who shall be clerk of the county court; a county assessor, who shall be ex-officio county treasurer and collector of taxes, and a sheriff, who shall be ex-officio coroner, and at the general election to be held on the Tuesday after the first Monday in November, 1924, and every four years thereafter; a clerk of the circuit court, who shall be ex-officio recorder of deeds."

This section is intended to take the place of section 8 in the Constitution of 1870. It changes, of course, the year 1882 to the year 1922, and the year 1884 to the year 1924, to conform with future elections. It leaves out the office of county judge, because the judiciary act will provide for the election of county judges.

After county clerk, the new section provides, "who shall be clerk of the county court." Section 18 of Article 6, which is the judiciary article, provides for the election in each county of one clerk of the county court, and the Statute combines the offices of clerk of the county court and county clerk. The Constitution of 1870 seems to contemplate two offices, so that to provide for this inconsistency, it was thought best to insert in this section, "who shall be clerk of the county court."

This section creates the office of county assessor, and provides that the county assessor shall be ex-officio county treasurer and county collector of taxes, thereby combining the duties of these three offices in one officer. In counties under commissioners' form of government, the sheriff at present is collector of taxes, and turns the same over to the treasurer, and the treasurer is county assessor, the county being the unit of assessing property. Under township organization the treasurer is, under the present statute, the collector of taxes, and the assessment is made by township assessors, one elected in each township. This section attempts to make the county the unit of assessment and unit for the collection of taxes, both in commissioners' form of government, and under township organization.

The provision of section 8 of the Constitution of 1870 provides "they shall hold their respective offices for the term of four years, and until their successors are elected and qualified," is omitted here, and the new section 10 is made applying to all elective county officers.

Section 8 of the Constitution of 1870 provides that the circuit clerk may be ex-officio recorder of deeds, except in counties having sixty thousand or more inhabitants, in which counties a recorder of deeds shall be elected. There are in the State eleven or twelve counties having recorder of deeds as a separate office. It was thought best by the committee, or at least a majority of them, that the circuit clerk could very well be ex-officio recorder of deeds, in all counties; that it was advisable to do away with the election of a recorder of deeds as a separate office. Under the new census there will probably be quite a number of counties with a population of a little over sixty thousand, and it was thought advisable not to require those counties to elect a recorder of deeds. In any event that in all cases it was advisable to combine the duties of the two offices.

In this section the sheriff is made ex-officio coroner, and therefore does away with the election of a coroner.

Section 8 of the present Constitution, in the last paragraph, provides that the sheriff and treasurer cannot succeed themselves. The report of the majority of the committee omits this provision, and the minority report recommends that it be retained in the new Constitution.

Section 7. "The county board of and for each county shall fix the compensation of all county officers named in this article and all statutory county

officers, the number and compensation of their deputies and assistants, and the same shall be paid by the county treasurer upon the warrant or order of the county board."

This section takes the place of section 10 in the Constitution of 1870.

Section 10 provides that the county board shall fix the compensation of all county officers. The new section 7 provides the county board shall fix the compensation of county officers named in this Article, and all statutory officers. There has always been some controversy as to whether the county judge and States Attorney were not county officers. The compensation of county judge and States Attorney will be provided for, as we understand, in the judiciary act, and to be fixed by general law.

Section 10 in the Constitution of 1870 provides that in all cases where fees are provided for, the compensation shall be paid only out of, and in no instance, shall exceed, the fees actually collected, and limits the compensation to the designated amount in different classes of counties. The new section omits all this, and simply provides that compensation shall be fixed by the county board, without reference to the fees, and without any limitations as to the amount.

Section 10 of the Constitution of 1870 provides that the compensation of no officer shall be increased or diminished during his term of office. The new section 10 takes care of this provision, and limits the provision to elective officers.

Section 10 of the Constitution of 1870 provides that all fees or allowances received in excess of compensation shall be paid into the county treasury; section 9 in this report, in place of this, provides that all fees, allowances and emoluments and all interest on public funds received by any county officer shall be paid into the county treasury.

Section 8. "The General Assembly notwithstanding the provisions of sections 4 to 7, both inclusive of this article, may enact laws for the organization and government of counties, which shall become effective in any county when submitted to the electors thereof and approved by a majority of those voting thereon, and, whenever so approved shall supersede the organization and government and officers previously existing therein, and the affairs of such county shall thereafter be transacted in such manner as the General Assembly may provide."

This is a new section. The purpose of this section is that it was thought at some future time, it might be best to provide a uniform organization of county government which would be much better than the present forms of government, the township organizations and the commissioners' form of government, and make it possible for the legislature to give to counties a measure of home rule; that the most practical way to carry out this object and purpose was, not that the General Assembly should create and impose upon all counties a new form of government, but that the General Assembly might create a new form of government to be accepted by a vote of the people of any county; that as the efficiency and desirability of the new form of government was demonstrated by one or more counties, other counties would accept the same.

At the same time, it was thought best to retain the present form of government with the changes that have been made in the report, until such time as the legislature should devise a better form of government for the acceptance of the counties.

Arguments for this position will probably be made by members of the committee when this question comes up for consideration.

Section 9. "The General Assembly shall, by general and uniform law, provide for and regulate the fees of all county and township officers. All fees, allowances and emoluments, and all interest on public funds, received by any county officer shall be paid into the county treasury."

Section 11 of the Constitution of 1870 provides that the fees of township officers and of every class of county officers, shall be uniform in the class of counties to which they respectively belong. The new section 9 simply provides that the General Assembly shall, by general and uniform law,

provide for and regulate the fees of all county and township officers. It makes no provision for classification of counties in the fixing of fees.

It was thought that there was no necessity of classifying counties as to these fees, in view of the fact that the compensation of the officers was not made dependent upon the amount of fees received.

Section 10. "All elective county officers shall enter upon the duties of their offices on the first Monday of December following their election and shall hold their offices for the term of four years, and until their successors are elected and have qualified. The compensation of any elective county officer shall not be increased or diminished during his term of office."

I have heretofore referred to this section.

Section 11. "Every county and township officer shall make a semi-annual report under oath of all fees, allowances and emoluments and all interest on public funds received by him, as may be required by law."

This section is intended to be in place of section 13 of the Constitution of 1870. The Constitution of 1870 provides for the report of all fees and emoluments, whereas this section 11 provides for a report of all fees, allowances and emoluments and all interest on public funds.

Section 12. "County authorities shall never assess taxes the aggregate of which shall exceed seventy-five cents per one hundred dollars valuation, unless authorized by a vote of the people of the county; provided, the county authorities may assess an additional tax, not exceeding seventy-five cents per one hundred dollars valuation for the construction, improvement and maintenance of public highways."

There is no section in the present Constitution in Article 10 covering the subject matter of this section 12.

The revenue article provides that the county taxes shall not exceed seventy-five cents per one hundred dollars valuation, unless authorized by vote of the people of the county. That provision is the first part of this section 12. Believing that sometime in the future it might be desirable to make the county the highway unit, it was thought desirable to add the last provision in this section 12, on line 3, after the word "county." At present the township is the unit in the control of highways, and levies a highway tax and limited by the Statute.

Section 13. "The General Assembly may vest the corporate authorities of counties and townships with power to construct and improve public highways, in part by special assessment or by special taxation of contiguous property, or otherwise."

This is a new section. Under the present Constitution, cities and drainage districts are the only municipalities permitted to make such improvements by special assessment. By this section, it was thought desirable to make it possible for the legislature to vest in county and township officers the power to build highways, in part by special assessment, and this section follows the language in giving this power, of the section of the revenue act, with reference to cities.

Section 14. "The provisions of this article shall not apply to the County of Cook."

CHAIRMAN SMITH. Does that conclude your explanation, Mr. Jarman?

Mr. JARMAN (Schuyler). Yes.

Mr. TAFF (Fulton). In order that this may proceed orderly in the arguments on the different sections, I move that section one be adopted.

CHAIRMAN SMITH. The question is on the motion of the delegate from Fulton (Taff) that section one be adopted.

Mr. CARLSTROM (Mercer). I suggest that we follow the rules of this Convention and have the Clerk read this report section by section.

CHAIRMAN SMITH. The Clerk will please read section one.

(Section one read by the Clerk.)

Mr. DUPUY (Cook). Section fourteen provides that the provisions of this article shall not apply to the County of Cook. It is quite manifest when we come to that article, it may not be adopted. It is equally obvious if that should be the case that the delegates from Cook county would be

acting under something of a misapprehension. I would like to ask unanimous consent of the Convention that we pass on Article 14 first. It is the orderly method of proceeding by which we can act intelligently, it seems to me. If you adopt section 14, saying that it will not apply to Cook county, we may desire to vote and debate in an entirely different manner than what we would if that article was ultimately stricken out. I would like to move as a substitute for the pending motion that Article 14 be taken up and voted on.

Mr. GORMAN (Cook). I would suggest to my colleague from Cook (Dupuy) if we are not treated as favorably as we expect to be in regard to this article a motion to reconsider will probably attain the end he seeks.

Mr. Hull (Cook). Referring to section 14, it was inserted, having in mind the problems of Cook county with reference to consolidation, and also some of the discussions that have taken place with reference to the judiciary article. So far as I am concerned it would seem to me desirable that section 14 should be in there, that there should be an exception of Cook county until we can work out a consolidated article and until we can work out something with relation to the reports and in relation to the clerks of the court, and the court, whether appointed or elected.

Mr. DUPUY (Cook). I am not objecting to section 14. I am very glad to have it there, but I want to know it is there before we proceed to vote upon the body of the whole report, and I think it is the only fair method of procedure, for us to know whether or not section 14 is to stand as a part of this report before we proceed to vote on the article at large. I think that section 14 should be retained, should be adopted, and in that case the matter is all very plain and simple.

Mr. CARLSTROM (Mercer). If I understand you rightly, you said that if section 14 was to remain in, then the representatives of Cook county would not be concerned so much about the other provisions?

Mr. DUPUY (Cook). I did not say that in so many words. I said we cannot act intelligently on this subject unless we know whether section 14 is going to remain in there or not. I assume it will be retained. I have no doubt that will be the vote of the Convention. In such case we would be less concerned than if stricken out after all the rest of the report is adopted. I think it is fair to the delegates from Cook county that we should know in the first instance whether section 14 remains in the report, because we might debate otherwise. I am not advocating the matter, nor am I at this time speaking against it. I am simply saying it is the only orderly method of procedure by which we can get at the matter in the right way.

Mr. CARLSTROM (Mercer). I wanted to ask you, Judge, and the rest of the delegates from Cook county, regardless of that provision, to join with us in the careful consideration of these provisions in the interests of the counties down State.

Mr. DUPUY (Cook). We have no purpose or notion of doing otherwise, but when we vote on it as affecting Cook county that is one thing, and as affecting the counties down State is another thing, and we ought to know whether section 14 is going to remain in the report and be adopted, and I hope the Convention will adopt section 14 first.

Mr. TAFF (Fulton). I desire to explain the position of the committee with reference to section 14. The committee did not think it was proper to hold up the business of this Convention until the Committee on Chicago and Cook County was heard from, and having that in view they inserted in here section 14. I will say this, that if the article on counties as reported in by the committee does not meet the views of the delegates from Cook county after their report is in, there is a time, which will be the second reading when the two can be correlated, and dove-tailed in with each other. Having that thought in mind, the committee thought it advisable in order that this Convention might have work to do and discuss the matter contained in this report, they put in section 14. There was no intention on the part of the committee to in any way interfere with the report of the committee which will come from Chicago and Cook county, but there must be a starting point

somewhere. If we adopt section 14 prior to the other sections, and proceed with the other sections, we will be in exactly the same shape as now. In other words, when the Chicago and Cook county report comes out it may be they will want again to amend section 14 to make it not apply to Cook county. Therefore, I think it is the easiest way to adopt the sections one after the other in this report, and then, if on second reading it is necessary to change section 14, that may be done.

Mr. LINDLY (Bond). I think to save time on this proposition that the suggestion from the delegate from Cook county (Dupuy) is correct. If you adopt section 14 that does away with the discussion as to whether that section would apply to Cook county or whether they would desire it or whether they would not, and then the discussion can be wholly as to the counties outside of Cook, and I think it is a very wise suggestion that section 14 be adopted first, because it will limit the discussion on this floor.

CHAIRMAN SMITH. The question is on the substitute of the delegate from Cook (Dupuy) that section 14 be first considered.

(Motion prevailed.)

CHAIRMAN SMITH. Will the Clerk please read section 14?

(Section 14 read by the Clerk.)

Mr. CUTTING (Cook). I move the adoption of section 14.

(Motion prevailed.)

Mr. TRAUTMANN (St. Clair). I would like to ask a question: since section 14 has been adopted, I would like to know whether the Committee on Chicago and Cook County contemplate putting anything in their article similar to section 1?

Mr. HULL (Cook). The Committee on Chicago and Cook County has been taken up pretty largely with the question of home rule, and has not tackled the county problem yet, and I would not like to anticipate the action of the committee.

Mr. TRAUTMANN (St. Clair). I do not quite understand why section 1 should not apply to all the counties in Illinois.

Mr. TAFF (Fulton). I now move the adoption of section 1.

(Section one adopted.)

CHAIRMAN SMITH. Will the Clerk please read section 2?

(Section two read by the Clerk.)

Mr. HAMILL (Cook). I would like to have read an amendment I have just handed up to the Clerk to section 2, the first four lines of section 2, so as to read in accordance with that amendment, "No county shall be divided nor any territory be added to or taken from any county unless such question shall be submitted to a vote of the people of each county affected and the majority of the electors of each county affected voting on the question shall vote for the same."

The purpose of the amendment is, first, to simplify the phrasing a little bit by taking out of line two the clause "nor any territory be taken from any county," seeking to cover the same meaning by adding in the first line after the word "to" and before the word "any" at the end of the line the words, "or taken from." It seems to me that covers the same ground that is covered by the phrasing as it stands in the report of the committee. The other amendments are for this purpose. As I read the section in the form submitted by the committee, it would not require a vote of the people of the county to which territory was to be annexed to consent to such an annexation. It would seem to me the people affected by the change would be first the county from which the territory is taken, and secondly, the people of the territory taken, and thirdly, the people of the county to which the territory is added. All three are concerned with that change. The section, I submit, requires a vote of two groups of people, while it should require three groups.

Mr. TAFF (Fulton). I think the delegate from Cook county is mistaken in his interpretation of the section, that it will require not only the vote of the people of the county from which any territory is to be taken, but it will require also a vote of the people of the county to which the territory is to be added. The first part of the section says, "no county shall be

divided nor any territory be added to any county." Now, if any territory is to be added, it requires a vote of that county. "Nor any territory be taken from any county;" now, the next paragraph provides, "no territory shall be taken from any county, unless a majority of the electors of such territory,"—therefore, it requires a vote of the county from which taken, a vote of the county to which it is added, and a vote of the territory affected.

Mr. HAMILL (Cook). I suppose the intention of the committee was as suggested by the delegate from Fulton (Taff). The difficulty arises from the language used. The language used in lines two and three is as follows: "unless such question shall be submitted to the people of such county." Such county is presumably the equivalent of said county, and said county would refer back to the next preceding county mentioned, which would be "when any territory be taken from any county." There is some question as to the construction of the language in the form used, and I think the question would be obviated by the adoption of the language I have suggested. My only purpose was to carry out what I surmised was the intention of the committee but which was left in doubt in my mind.

Mr. WALL (Pulaski). This language strikes me as being entirely clear as elucidated by the delegate from Fulton (Taff). I do not understand the words, "such county" means such county as suggested. Whenever two counties are referred to, the word "such" assumes a plural character, and refers to both counties.

Mr. HAMILL (Cook). Then why doesn't it say so?

Mr. WALL (Pulaski). You might put it in a little different language, that is true.

Mr. HAMILL (Cook). That is what I am trying to do.

Mr. WALL (Pulaski). As far as that part is concerned, it is as clear as the language can make it. They both vote on this question before it can be adopted.

Mr. HAMILL (Cook). What part of speech is the word "such?" adverb, adjective, substantive, or what?

Mr. WALL (Pulaski). It rather partakes of the property of a pronoun.

Mr. HAMILL (Cook). Does it refer to the word "county?"

Mr. WALL (Pulaski). To the word "counties;" if so, it would be entirely a qualifying adjective.

CHAIRMAN SMITH. I might say for the information of the delegates that this language was discussed in the committee on that very point, so it has not been overlooked by the committee.

Mr. MILLS (Macon). As I read this section two, it reads, "No county shall be divided nor any territory be added to any county, nor any territory be taken from any county, unless such question shall be submitted to a vote of the people of such county, and a majority of the electors of such county voting on the question, shall vote for the same." Perhaps the county to which this portion wanted to be attached, did not want it at all, then the voters in that portion of the county from which the territory is taken have no voice in the matter at all. For instance, Niantic Township adjoins Sangamon county. Suppose the people of Niantic Township would want to leave Macon county and unite with Sangamon county, and perhaps Sangamon would not want them. Has not Sangamon county a right to say whether they shall be accepted as much as Macon county to say they shall go, or is it left to the little territory of Niantic Township to say which they shall do? If it must be submitted to the vote of Macon county in the first place to say whether they shall go, then it should be submitted to the vote of Sangamon county to say whether they will take them or not.

CHAIRMAN SMITH. Your question is answered in this section.

Mr. JARMAN (Schuyler). That amendment would not apply at all. This amendment is with reference to dividing one county. Under our present provisions you cannot take a portion of a county from a county unless you add it to a county, or unless you divide the county into two counties. It seems to me we went over this very carefully and the wording here embraces and covers every condition that might exist.

CHAIRMAN SMITH. The Chair desires to say that the committee in its deliberations gave full consideration to the fact that three different units must be consulted and a majority vote must come from the three different units before the transaction could be made of withdrawing one section from a county and adding it to another, and in the opinion of that committee, that is covered in this section.

Mr. RINAKER (Macoupin). It certainly seems to me that unless in the third line you substitute the plural "counties" for the word "county," you do not accomplish what you say you are trying to do, and it does seem to me the amendment of the gentleman from Cook (Hamill) is a very proper one and expresses the meaning which the committee evidently had in mind, "a vote of the people of such county" is singular. If you say "a vote of the people of such counties," and then in the fourth line also you say, "such counties," using the plural, you have expressed what you are trying to, and it seems to me the amendment of the gentlemen from Cook (Hamill) better expresses it.

Mr. JARMAN (Schuyler). Suppose the matter only involved one county?

Mr. RINAKER (Macoupin). Then, that would be all right still. The amendment of the gentleman from Cook is in order.

CHAIRMAN SMITH. The question is on the amendment offered by the delegate from Cook (Hamill).

(Amendment adopted.)

Mr. JARMAN (Schuyler). I move to reconsider the vote, we did not understand it back here.

CHAIRMAN SMITH. The question is on the reconsideration of the vote on the adoption of the amendment.

(Motion to reconsider lost.)

Mr. NICHOLS (Ogle). I move section two as amended be adopted.

(Section two adopted as amended.)

CHAIRMAN SMITH. Please read section 3, Mr. Clerk.

(Secretary reads section 3.)

Mr. DOVE. (Shelby). I move that section 3 be adopted as read.

Mr. CRUDEN (Cook). I want to call your attention to these qualifications as compared with the qualifications in section one of the Article on Suffrage adopted sometime ago in which it says, "that every elector who shall have resided in the county ninety days, in the election district thirty days next preceding any election therein, shall be a qualified elector at such election." That is rather in conflict with that section and it seems to me that should be changed.

CHAIRMAN SMITH. The old Constitution has the same conflict, if this is a conflict.

Mr. TAFT (Fulton). The committee followed the wording of the old Constitution. It was thought that on a question so important as the removal of the county seat no one should be permitted to vote unless he had resided in the county six months, in the election precinct ninety days, regardless of what the General Election Laws might provide. In other words, this was a special qualification of electors voting on this particular question, on the removal of the county seat.

Mr. LINDLY (Bond). Why not just say "qualified voter?"

Mr. TAFF (Fulton). Because this imposes additional qualifications on the elector to vote on the removal of the county seat.

Mr. LINDLY (Bond). They must live in the precinct ninety days instead of thirty days, which makes a qualified elector in the Constitution?

Mr. TAFF (Fulton). Yes.

Mr. JARMAN (Schuyler). This qualification was made more stringent in the old Constitution as to residence on account of the bitter fights with reference to the removal of county seats. In those fights there was colonization of voters, and it was easier to colonize voters for thirty days than for ninety days. That was the object of this provision in the old Constitution. The necessity may arise again as it did then, human nature being the same.

Mr. SUTHERLAND (Cook). I just wanted to call attention to the fact there would be no greater discrepancy in this section of this article and the Suffrage Article than in the present Constitution between those corresponding sections.

Mr. TRAUTMANN (St. Clair). I would like to ask a question of some member of the committee, and that is this: Why, in line two of section three use the words, "three-fourths," when in the present Constitution there is "three-fifths?" To make it more difficult to move the county seat?

Mr. JARMAN (Schuyler). The old Constitution required three-fifths of the voters of the county to be ascertained in such manner as shall be provided by general law. Now, it is a difficult question to ascertain how many voters there are in the county, and to equalize that we say three-fourths of the voters voting on the question, which would about equal three-fifths of the voters in the county, so it would make it more definite.

Mr. CRUDEN (Cook). I have no objection to the period they have inserted in this section, but I do believe it ought to correspond with section one of 351, or section one of 351 should correspond with this. I do not think it is right to say something in one article and another in another article, and for the purpose of getting a vote on the question I move that in line five of Article 3, the words "ninety days in the county" shall be inserted, and "in the precinct thirty days."

CHAIRMAN SMITH. The Chair would suggest if you make such an amendment as that you might as well say "qualified voter." Please read the amendment, Mr. Clerk.

THE SECRETARY (Reading). Amend section three by adding the word "qualified" at the end of line two thereof, and strike out the clause beginning with the word "and" after the semicolon in line four and ending with the word "election" in line six thereof.

Mr. JARMAN (Schuyler). I certainly hope this amendment will not prevail. I do not know that the delegate from Cook county understands the situation with reference to those county seat fights, but they are the most bitter fights in county politics, and certainly were when the Constitution of 1870 was adopted, and that is the reason the Constitution of 1870 made this stringent provision, this limitation. Now, it was possible at that time in the southern counties of the State to colonize negroes for thirty or ninety days and carry an election with reference to a removal of a county seat. This requires an additional residence of four months in the county and an additional residence of sixty days in the district, and this is such an important question and creates such bitter fights that I think this qualification in this provision should be continued.

Mr. HAMILL (Cook). I am in hearty accord with the sentiments just expressed by the member from Schuyler (Jarman); as a matter of accommodation to my colleague from Cook I drafted the amendment, but I am not in favor of it.

Mr. SIX (Pike). It occurs to me that the fights made in the past on this question will not occur in the future. The fights with regard to county seats were conducted at a time when the election laws were very much different than they are now. There was no protection for the voter, the machinery of elections was in the hands of a few men. But when you stop to consider that here they have a proposition by which three-fourths of the voters voting on the question express themselves in favor of the adoption of a thing, I think we have a sufficient protection to any government that must be recognized as of the republican form. If we fail with those safeguards, the county has failed to govern itself under the principle we have adopted. I am in favor of the change, and I trust we can give to the voter that qualification which lets him vote upon every proposition, on the theory he will do so in accordance with the principles of our government.

Mr. TAFF (Fulton). The delegate from Pike (Six) says that these county seat fights will not again occur. There appeared before the Committee on County and Township Government men who at this time were interested in county seat fights. There will be within the very near future in the State of Illinois at least two county seat fights. One county in

which this will occur has voted on the proposition four times since the adoption of the Constitution of 1870, and as I say, these contests will occur, and I think it is no more than proper and right that the electors who vote upon these questions, being local questions, should have a higher qualification than those of the general electors. For that reason I hope that the amendment will not succeed.

CHAIRMAN SMITH. Before putting the question, the Chair will state that he believes the motive of the proponent of the amendment was to cut out the conflict in the Constitution, not that he objected to the conditions requiring the qualifications for the voter. One of the delegates has spoken, basing his remarks on his desire to remove the difference in qualifications. I would like to state that the old Constitution has the same conflict, if it is a conflict, and the Committee did not consider in its deliberations that this would be any conflict in any manner whatever in the Constitution, because the same thing prevailed in the old Constitution, and I would like to have it in the minds of the delegates that I believe that that was the motive of the delegate from Cook who proposed the amendment, not that he desired to have the qualifications the same in both cases so much as he desired to eliminate the conflicts.

Mr. ELTING (McDonough). I am against the amendment of the section that is before the committee. The contests of this kind are the most bitter that we have in our county organization. These county seats fights are very bitter as a rule, and the feeling does not end with the election that is held, as a rule. We have had them in our county, and you take a county where it has a contest on that matter, the cities and towns in the county, they do colonize voters and take every advantage known to astute politicians to carry their point. This rule laid down in this section is a very fair rule. It is quite a serious thing to change a county seat. It affects values of property, and the rights of citizens are involved not usually involved in other elections, and therefore the election should be a fair contest. I can see no harm in requiring the voter to be a resident of the county six months and the precinct ninety days when he votes on such an important question as moving the county seat of a county to some other town. It involves a great expenditure of money, as a rule, and a loss of property values to the city from which the county seat is removed. While I do not worship the old Constitution altogether, I think that the fact that they laid down a similar rule is a good suggestion to follow. I favor the section as reported by the committee.

Mr. CRUDEN. (Cook). The Chair has figured my position on this question absolutely right. My only thought was we should make it in harmony with the suffrage article. That is the reason I made the motion.

CHAIRMAN SMITH. The question now is on the amendment proposed by the delegate from Cook (Mr. Cruden).

(Amendment lost.)

CHAIRMAN SMITH. The delegate from Pulaski (Wall) has submitted an amendment which I will ask the Clerk to read.

THE SECRETARY (reading). Amend section 3 as follows: Strike out the words "three-fourths" in line two and insert in lieu thereof the word "three-fifths." Strike out the words "voting on such question" in line three and insert in lieu thereof "those entitled to vote on such questions."

Mr. WALL (Pulaski). I would not have submitted this amendment but for the reason I have been unfortunate enough to have to go through two county seat fights in my home county, one about eight years ago and the other about eighteen years ago, and I must beg to disagree with the gentleman who said that he thought county seat fights were over in the State. That is possibly true where the county seat is geographically located in the center of the county, where it is the most prosperous and the largest town in the county, but it is not true in various counties of the State where county seats are located a long distance from the geographical center of the county and probably located in towns that only have their commercial and business existence because, or largely because of the location of the county seat in those places.

There are many counties in southern Illinois whose county seats are located on rivers, and the development of the mineral products in those counties together with agricultural and railroad centers have since the Constitution of 1870, built up new and prosperous towns inland near the geographical center of the county in which probably two-thirds or three-fourths of the people do their trading and do their business, and many of those places are now wanting the county seat.

Now, under the present Constitution, it takes three-fifths of the voters entitled to vote on that question to remove a county seat where the present county seat is as near to the geographical center of the county as the one to which the county seat is sought to be removed. Where the place seeking to secure the county seat, as I remember the present Constitution, is near the geographical center, then the majority of the voters entitled to vote on the question are necessary in order that the county seat may be removed. Now, realizing the fact that there are county seats in my own honest judgment, which ought to be removed at this time on account of the development I have heretofore spoken of, I think that three-fourths of the voters of the county are too many to secure in that question before the right to remove the county seat is allowed. It is true these are the bitterest fights in any political history of the county as a unit. They leave sores, Mr. Chairman, that go unhealed as long as the men live who participate in them. They leave behind them wreckage and calumny, abuse and venom that is without parallel in the history of politics. No man who has not gone through these fights knows what it means. Communities divide, and they divide because of the election, because of business, industrial, commercial and other interests. The churches even go so far as to divide, and religion, politics and business is all mixed up into a maelstrom of venom and hatred. I cannot describe to you in my limited vocabulary the bitterness of the fight that is made.

It is necessary for the convenience and the benefit of the body politic as a whole occasionally to remove a county seat, and I think when that is true that it ought not to require three-fourths of the voters to do that. I am willing to yield that portion of the old Constitution which says when it is farthest from the geographical center, it shall be three-fifths, but I think that is enough. I will give you my reasons for that very briefly: here is a county of say twenty-five thousand inhabitants, the county seat is located at the very farthest and remotest corner of the county, or town on the southeastern edge of the county with a population of from fifteen hundred to four thousand people. Around that county seat is an unproductive swampy territory for three or four miles out, and then further northwest is the great prosperous alluvial soil and the great farm houses and the productivity and the industrial activity of the body of the county, and if you make this a three-fourths vote, they will always mass enough in the county seat to have a little over one-fourth of the vote polled, and where the necessity is actually great it will not receive enough votes to cause removal.

There is one thing certain, there is no danger of the county seat being removed unless there is a need for it. The tendency is against it because of the extra cost of putting up new buildings, and many men will vote against it because of the increased cost of building a new court house and jail. I think this should receive three-fifths of the vote entitled to vote on this question. I disagree with the distinguished member who explained the whole article, that three-fourths of those voting on the question will amount to as many as three-fifths of those entitled to vote on the question. There may be but one-fourth or one-twelfth of the entire vote polled, and three-fourths, in that event, would carry the election, and on a question like this affecting the entire body politic in a direct and vital manner, as it does, there ought to be in the county that changes its county seat a clear cut majority of the vote entitled to vote on the question for it, and when that is done, Mr. Chairman, it ought to be sufficient to remove the county seat, and I suggest three-fifths in this amendment which would give a clear-cut majority and some more, and I think with that we ought to be satisfied.

I do not believe that we ought to allow a county seat to be changed unless we knew it would have to receive at least a majority of all votes on the question, and three-fifths should be sufficient, but the danger of the three-fourths proposition of those voting on the question, through the manipulation of the fellows at the county seat, who are usually politicians and usually the most experienced at manipulating in such a way that it would not be a fair expression of the vote of the county.

Now, under the present Constitution—I shall detain you but a moment longer—under the present Constitution it is possible for the place to which the county seat is sought to be removed, if it is near the geographical center to get a majority of the votes entitled to vote on the question, and it is also possible in the same fight for the present county seat in resisting that election to not cast a single solitary vote on their side of it. Did you ever think of that? In the last election in my county on that question I lived in Mound City; I was for the retention of the county seat, and I was attorney for the County Board, and we recommended that not a single solitary vote be cast at Mound City, and there was not a vote cast in the five precincts in that town. Mounds, the city seeking to get the county seat, mustered the very best vote she could get, and when the returns came in, she had under the law an affirmative vote, and we went in by bill in the circuit court and said: it is true she had an affirmative vote, but she had not received a majority of the votes in the county entitled to vote on the question in the affirmative, and we proved that by extrinsic evidence and retained the county seat. That is the condition under the present Constitution, and that can be done. I think that we ought to safe-guard this most important question to a good many of the counties in the State by saying that three-fifths of the vote entitled to vote on that question should be cast. It should be changed so that the entire people should give a full and fair expression on that question, so when a county seat is removed there will not be a solitary doubt that it has a clear-cut majority of all the voters voting on the question, and that is the reason I offered this amendment. I do not think it should require three-fourths, then it would take three out of every four in the county to remove the county seat, although under conditions as they exist in the county it ought to be removed in order to accommodate three-fourths or three-fifths of the people, and I think the amendment should carry for that reason, and the other reasons I have stated.

Mr. MOORE (Macon). I would like to say that the proposition here seems to be to have a simple method of determining the vote, the actual counting of three-fourths of the vote cast on the subject. If you have a three-fifths vote demanded by the Constitution, as the gentleman says, the question is very easily open to litigation. The question of whether the vote carries or not is determined clearly by three-fourths of the vote cast, and under the proposition here it will not take any more votes to move a county seat than if you required three-fifths, and if you had the three-fifths rule the question would come up whether or not three-fifths of the people voted for it, and you would have to prove it by searching the poll list to find out whether or not all the people voted who were in the county at the time. I do not think the amendment should be adopted.

Mr. TAFF (Fulton). In redrafting this section the committee had in mind the very proposition which has been advanced by the delegate who last spoke. Under the present Constitution it requires three-fifths of the legal voters of the county; the committee inserted three-fourths of those voting on the question, assuming that three-fifths of the legal voters of the county and three-fourths of those voting on the question would be practically the same number, and it was in order to avoid any doubt as to whether the election carried or not, that this section was in the manner drawn, providing for three-fourths of those voting on the question. The Constitution of 1870 says three-fifths of the voters of the county be ascertained in such manner as may be provided by general law. I doubt whether under that the General Assembly would have the power to pass a general law arbitrarily saying that the total number voting on the question was the number of voters in the county. They seemed to have recognized this when the General Assembly

enacted the law providing for the ascertaining of the number of votes in the county, because in the law which they enacted they said the number voting at the election should only be prima facie evidence of the number in the county entitled to vote, but that the courts could hear evidence on that question. This section was drawn to avoid that misunderstanding, and I think that the motion to amend should not prevail.

Mr. WALL (Pulaski). I do not desire to extend my remarks further except to say that the whole purpose of this amendment, I mean the cardinal principle of it is to prevent the necessity of three persons out of four voting to change the county seat before it can be changed. This makes it a little harder, but in the committee report it makes it impossible to ever change a county seat from a practical standpoint. This makes it harder than it was before.

I believe, Mr. Chairman, I will withdraw my amendment and move as a substitute for it, section four of the old Constitution as it reads, and what I have said applies to that with the same force.

Mr. HAMILL (Cook). I would like to ask Judge Wall a question. If the section were made to read three-fifths instead of three-fourths of those voting at the election, which would accomplish the purpose which the committee had in mind of making definite the vote required, instead of leaving it subject to possible litigation to ascertain the number of qualified voters, would that not in your opinion be a sufficiently large vote of those voting at the election?

Mr. WALL (Pulaski). Well, perhaps it would, in answer to the delegate from Cook (Hamill), and yet it would not protect it to the point where at all times it would be safe. Practically speaking, I think that might do, three-fifths of the voters voting on the question.

Mr. HAMILL (Cook). Would not you protect the interests you are seeking to protect by withdrawing your present motion to substitute the old section of the Constitution and move to amend the report of the committee by changing three-fourths to three-fifths?

Mr. WALL (Pulaski). I would accept that rather than let it stand as it is, because I do not want it to appear here that I stood for a proposition where a county seat was sought to be removed, that it took three people out of every four, and punish that three-fourths by a constitutional amendment from the right to change the county seat if they wanted to.

Mr. LINDLY (Bond). Do you realize now under your acceptance of this, that you change from three-fourths to three-fifths of those voting on the question?

Mr. GREEN (Champaign). I do not believe there is any danger of these amendments carrying, but surely the judgment of this committee is right about this whole matter. Why, the very fact that the judge would have lost his law suit if the three-fifths vote had been true ought to be sufficient argument why that would not do. The removal of a county seat takes tremendous property values from citizens without any compensation, and it ought to have three-fourths vote of all the people who vote on the question before they do it. It does not seem to me there ought to be any argument about that.

CHAIRMAN SMITH. The question is on the amendment of Judge Wall to substitute three-fifths for three-fourths reported by the committee.

(Amendment lost.)

CHAIRMAN SMITH. The question is on the adoption of section three as read.

(Section three adopted.)

Mr. PADDOCK (Sangamon). I move the committee take a recess until four o'clock p. m.

(Motion prevailed.)

Whereupon a recess was taken by the Convention to Tuesday, May 18, A. D. 1920, four o'clock p. m.

4:00 o'Clock P. M.

The Convention met pursuant to recess.
(Chairman Smith presiding.)

CHAIRMAN SMITH. The committee will be in order. We are now ready to consider section four. The Clerk will read section four.

(Section four read by Secretary.)

Mr. DOVE (Shelby). I move the adoption of section four as read.

Mr. HAMILL (Cook). How does that conform with the present provision?

CHAIRMAN SMITH. The substance is the same, with reference to interexchange by counties under township organization and those under commission form of government; no change in the substance. This is a substitute for section five in the old Constitution.

(Section four adopted.)

CHAIRMAN SMITH. Please read section five.

(Section five read by Secretary.)

Mr. DOVE (Shelby). I move the adoption of section five as read.

(Section five adopted.)

CHAIRMAN SMITH. Please read section six.

(Section six read by Secretary.)

Mr. SCANLAN (LaSalle). I would like to offer a substitute for both the minority and majority report on section six, as follows: "Section Six. In each county there shall be elected the following county officers at the general election to be held on Tuesday after the first Monday in November, 1922: a county judge, a county clerk who shall also be clerk of the county court, a county assessor who shall be ex-officio county treasurer and collector of taxes and a sheriff, and at the general election to be held on Tuesday after the first Monday in November, 1924, a coroner, a clerk of the circuit court who shall be ex-officio recorder of deeds in counties having less than sixty thousand inhabitants, and a recorder of deeds in counties having sixty thousand or more inhabitants."

Mr. SCANLAN (LaSalle). In this amendment we provide for a county judge; we also preserve the recorder of deeds in counties of over sixty thousand inhabitants, and in the matter of the county assessor, we have adopted in this substitute some of the ideas of the majority and the minority report. The minority report provides that the county assessor and the sheriff shall not be eligible to reelection. Now, if you are going to provide for a county assessor it would seem to me the longer he was in office the more competent assessor he would be. I do not think it would be a wise provision to say that the county assessor should not succeed himself in office. There are some other amendments on other sections for some kind of audit by a State agency. It would seem to me if there was an independent audit made, there would probably be no objection to the sheriff and the assessor and the county treasurer succeeding themselves in office. The auditing is done by the Board of Supervisors in some counties, and in the larger counties of the State it is done by some auditing concern. I offer this section six as a substitute for the majority and minority reports.

Mr. DUNLAP (Champaign). As a matter of information, as I understand it, there is now before the Committee of the Whole a substitute offered by the minority of the committee, and that being the case, do I understand that the Senator from LaSalle (Scanlan) offers this as an amendment to the minority report?

Mr. SCANLAN (LaSalle). As a substitute for both the minority and majority reports.

Mr. DUNLAP (Champaign). I think one substitute would be in order, but not two substitutes. A substitute for a substitute would not be in order any more than an amendment for an amendment.

CHAIRMAN SMITH. If you classify one as an amendment it would be in order, I think.

Mr. LINDLY (Bond). I think the only thing before the house is a substitute report, and if your amendment was offered it would have to be offered to the minority report; it could not include the majority report because it is not now before the house.

Mr. SCANLAN (LaSalle). I offer this as a substitute for the minority report.

CHAIRMAN SMITH. The Chair holds that the minority report will take precedence as a substitute, and if the delegate offers his as an amendment for the substitute, it would be in order.

Mr. GALE (Knox). I am opposed to a portion of this amendment and a portion which is also included in the other reports herewith submitted, to-wit, that referring to the county assessor. It seems to me, Mr. Chairman, that that is a matter to be carefully considered by this Convention. We have now in the State of Illinois a State Tax Commission. We have hopes of a great improvement in the administration of the Revenue Laws of the State from some central body like the State Tax Commission or some such name as the General Assembly might choose. Now, I think it is quite possible that there may come a time under this Constitution, if it be adopted, and before another Constitution shall be written, when it would seem to the people of the State of Illinois and the representatives in the General Assembly that the control of taxation and of the administration of taxes should be pretty largely in some central body, and to impose in the Constitution a method of electing county assessors may very seriously interfere with such administrative control. I am therefore opposed to putting this provision regarding assessors into the Constitution. I think in any event it is a legislative matter. It seems to be clear under the Constitution as it stands today the legislature may provide, by reason of the wording of section 1 of the Revenue Article in the Constitution, for the assessment and the collection of taxes by such authorities as it sees fit, and it could at the present time provide for a county assessor instead of for the township assessor. I may say, Mr. Chairman, that it seems to me that that would be a great improvement on the present system. With that suggestion in the article I am in hearty sympathy, but I object, Mr. Chairman, to putting that wording into the Constitution itself for it cannot be changed, if later on it seems desirable to change it, where it may interfere with a scientific revenue system such as we hope the State of Illinois is some day going to have, and it seems to me, Mr. Chairman, that it is a matter which should be left entirely to the State legislature and should not be controlled in the Constitution, again, Mr. Chairman, if we are going to have a county assessor of taxes, he should not be ex-officio treasurer and collector. He will have enough work if he is elected county assessor without being given the job of treasurer and collector of taxes in addition.

The members of this Convention will remember that Governor Oglesby appointed a revenue commission in 1885, whose recommendations were not followed by the General Assembly, but who in their report went into the question of having a county assessor instead of township assessor, and who approved and recommended such a course to the legislature, and submitted for consideration to the legislature a complete Revenue Article. They found it was quite possible under the Constitution to have a county assessor and they so recommended, and in their complete Revenue Article they set forth what his duties would be, and his duties, Mr. Chairman, in the Revenue Article then proposed covered more than half of the entire Revenue Article, indicating to some extent how extensive and how important the duties of county assessor, if one were adopted, would be; so important, Mr. Chairman, that the duties should not be combined with the duties of any other office. Furthermore, Mr. Chairman, if you have the county assessor also the county treasurer and the county collector, you will get no such check upon his work as if he only assessed the taxes, while the collection of them would be in some other hands. The duties of treasurer and county collector run together; they are executive or ministerial duties, while the duties of the assessor are something more than that, they are in a sense judicial duties; they consist in the determination of the value of property, and it seems to me that the man who does that should not be concerned with the collection of the taxes after his work is done. It seems to me, Mr. Chairman, that it would be a most unwise provision in the first place to put anything about the county assessor in the Constitution, and in the second place, if you do it, to bind his office with that of the county treasurer and county collector.

Mr. TRAUTMANN (St. Clair). I desire to offer the following amendment to the substitute offered by the delegate from LaSalle (Scanlan).

Mr. SCANLAN (LaSalle). I would ask leave to strike out in the eighth line "and county judge."

Mr. HAMILL (Cook). The minority report consists of a motion for an amendment to the majority report; the substitute offered by the delegate from LaSalle is in effect a motion to amend the minority report. That is, it is offered as an amendment to an amendment. I understand the delegate from St. Clair (Trautmann) now offers an amendment to the amendment offered by the delegate from LaSalle (Scanlan).

Mr. TRAUTMANN (St. Clair). I am attempting to offer an amendment to the substitute offered by the delegate from LaSalle.

Mr. HAMILL (Cook). There is no such thing known in parliamentary law as a substitute. A substitute is to strike out and insert, and it is only an amendment. The motion of the Delegate from LaSalle is therefore a motion to amend an amendment to an amendment and is not in order.

CHAIRMAN SMITH. The point of order is well taken.

Mr. JARMAN (Schuyler). I ask that the vote be divided on this section and that we first vote on the question of county judge.

Mr. SCANLAN (LaSalle). I asked that the words "county judge" be stricken out of the substitute.

CHAIRMAN SMITH. That will dispose of the request of the delegate from Schuyler (Jarman).

Mr. JARMAN (Schuyler). I asked that each division of this section be voted and considered separately.

CHAIRMAN SMITH. It will be so ordered. The question will be on the matter of county clerk, who shall be clerk of the county court.

Mr. SCANLAN (LaSalle). I think all three of the reports, the majority report, the minority report, and this substitute use that exact language so far as the county clerk is concerned. I do not think there is any dispute over that.

Mr. JARMAN (Schuyler). I move then that the part with reference to county clerk be adopted.

Mr. HAMILL (Cook). The motion of the delegate from LaSalle (Scanlan) as I understand it, is a motion to amend the minority report. He calls it a substitute. His motion does not deal with the county clerk. If the delegate from Schuyler desires a division of the motion it should only obtain so far as the motion of the delegate from LaSalle is an amendment to the minority report, and the question should be on the amendment of the minority report in the particulars the gentleman from LaSalle contemplates.

Mr. LINDLY (Bond). There could be no question but what the gentleman would have the right to ask for a division of the amendment, and that is what I understand he is doing.

Mr. HAMILL (Cook). Yes, that is what I understand.

CHAIRMAN SMITH. Since there is no difference in the original amendment or substitute with reference to county clerk, the Chair will hold it is unnecessary to vote on the question. The point of order of the delegate from Cook is well taken in that particular.

Mr. LINDLY (Bond). Point of order. If the amendment deals with several subjects, as it does, several offices, the gentleman arises and asks for a division of the amendment and the vote on them. As to the amendment, he is in perfect order to have that done, and then have a vote on the county clerk and the sheriff and the others separately, and then the amendment could be voted on separately.

CHAIRMAN SMITH. The idea of the Chair was to vote on questions about which there is a controversy. There is no controversy about the matter of county clerk.

Mr. WALL (Pulaski). I understand the Chair to say to the delegate from Schuyler who has asked to have this substitute voted on separately that it was so ordered. After that, objection was made to the point of order raised because the substitute contained the exact language of the minority and majority report as to county clerk. Notwithstanding that is true, that is part of the substitute and one of its divisible parts, and I think the point

of order is not well taken, because it is just as much a divisible part of the substitute as though it were not identical. I think the first ruling is correct.

Mr. HAMILL (Cook). The motion of the delegate from LaSalle (Scanlan) is in effect a motion to amend the minority report in certain particulars. It does not purport to amend the minority report with reference to county clerk. There is therefore no motion of the delegate from LaSalle relating to the office of county clerk.

Mr. LINDLY (Bond). The substitute offered by the gentleman from LaSalle is a substitute for the section of the minority report, and therefore it must be dealt with as a whole section. It surely is divisible, no matter whether it contains the same substance, as the delegate from Pulaski said. The only thing before the House is the substitute for that section, whatever that substitute contains, whether the same is divisible or not. The motion is to strike out a section and substitute a new section.

Mr. HAMILL (Cook). That is not the question.

CHAIRMAN SMITH. The Chair holds that while the question may possibly be divisible on that particular point, the vote is not necessary, and we will divide it only on the questions in controversy. The question on the substitute of the delegate from LaSalle, the first point of difference after the word "sheriff," "and shall be ex-officio coroner;" the question is whether or not to retain that in the section, "who shall be ex-officio coroner" after the word sheriff.

Mr. BARR (Will). It occurs to me that the effect of the amendment, or the substitute which amounts to an amendment to the minority report is already provided for the retaining in the Constitution of the office of coroner, and the effect of the adoption of the minority report would be the elimination in the Constitution of the office of coroner by providing that the sheriff would be ex-officio coroner. Coming from a country county, and by that I mean a county outside of Cook county, I am inclined to think that that is a matter that ought to receive very careful consideration at the hands of the delegates to this Convention. The office of county coroner, especially in the larger down-state counties, is a very important office. The matter of investigation of deaths, especially in the case of what might amount to homicide is in many instances a very important duty on the part of the county coroner, and his services it occurs to me in this connection especially ought not to be performed by the sheriff. As a matter of fact, the sheriff is the Police Department of the county in some instances. It is the sheriff who seeks out those who violate the law in the county outside of the city, and in many instances the coroner sits as committing magistrate to determine whether some person should be committed without bail for trial, and I believe it would be unwise to have the sheriff, who is the investigator or police or detective department of the county, to also have the power of committing the person who might be charged with the offense, to jail without bail. I think the duties are separate, I think they are so different it would be unwise to have the sheriff's office assume the duties of the county coroner. I think further than that, gentlemen of the Convention, that we are going to attract a great deal of opposition to the adoption of this section in many of the counties in the State.

I appreciate that my suggestion may be criticized. We are not here to draft a Constitution to please people, but on the other hand we must bear in mind we sit here as the representatives of the people to draft a Constitution to be adopted by the people and we will find in every county in this State I think many of the larger counties at least, that we will have a very positive opposition to the adoption of this Constitution if we strike out the office of county coroner from the list of county officers, by making the sheriff ex-officio county coroner, and I believe the amendment offered by the delegate from LaSalle or the substitute in that respect should prevail.

Mr. WHITMAN (Boone). I am in favor of the amendment which is offered by the gentleman from LaSalle, (Scanlan). I have seen the workings of this law where we already have both the coroner and the sheriff in the county. I submit that their duties are entirely different and ought not

to be performed by one person. I am aware of the fact in large counties like Cook that the coroner is not a professional man, but in a large number of counties throughout the State, the coroner is a physician, and in my judgment the office of coroner should be filled by a physician. The law says that in a case of accident, casualty or any undue means a coroner's inquest shall be held. I submit, having had experience along these lines, that if an inquest is held for the purpose of determining the cause of death, if there has been an accident, a casualty or any undue means, that a physician is vastly better fitted to sit in judgment in such a case and to advise the jury as to their rights and privileges than is the sheriff of the county. For this reason, if for no other, and there are other reasons, but this reason is sufficient, I am in favor of divorcing the two offices of sheriff and coroner.

Mr. DOVE (Shelby). Much that has been said by the gentleman just speaking is true. In some of the down-state counties a physician does act as coroner, and in many of the down-state counties an undertaker acts as coroner. The legislature has provided on the coroner's jury there shall be a physician, so the objections raised are met in that particular. There is no inconsistency, it seems to me, in the duties of sheriff and coroner, the sheriff being an investigating officer, as would also the coroner if the duties are placed in the same officer. It occurred to me and to many members of the committee that while the duties of the coroner are important, it would be a shortening of the ballot to make one less elective office by combining the two offices, and for that reason, the purpose of reducing the number of elective offices, and for that reason alone it seems to me the amendment should not be adopted and that the minority and majority reports in this particular be concurred in.

Mr. SCANLAN (LaSalle). In the larger counties of the State I feel we should continue the office of coroner. I do not believe the sheriff should be coroner, because if there is a crime committed it is the sheriff's duty to be the huntsman and try to hang the crime onto somebody, and as the sheriff is trying to hang the crime onto somebody he should not hold the inquest over the victim. I think in all fairness we ought to continue the office of coroner. It is not an expensive office. It does not mean much to the taxpayers, but it is an important office. So far as the smaller counties are concerned, if they think the sheriff could do the duties of both offices, all right, but in the larger counties I think it would be a mistake to wipe it out.

Mr. WALL (Pulaski). It strikes, me, Mr. Chairman, without giving the subject very much consideration, that the duties are so incompatible, and the general qualifications of the sheriff, as a rule, are not such, in certain cases to intelligently perform the duties of the office of coroner. Of course, if you have a physician on the jury, all right, but there are many investigations to be made where the man ought to possess certain special qualifications in order to properly and intelligently perform, that a sheriff ordinarily is not possessed of. There is another thing very well stated by the delegate from Will (Barr) and also the delegate from LaSalle (Scanlan), and that is that the sheriff becomes to some extent a prosecutor. He likes to see a thing when started gone through with, as it is often expressed, and he becomes more of a detective, more of a prosecuting officer, and loses that judicial temperament, that poise of judgment, that wholly disinterestedness that ought to surround the acts and duties of the coroner. The coroner's evidence, the verdict of the jury can be introduced in court often in the trial of law suits, personal injury cases, cases where death ensues by virtue of wrecks on railroads and numberless other instances of like character. I believe the duties are so incompatible, notwithstanding it might save some money, I doubt that very much, and shorten the ballot by one name, that it would be unpopular and unwise to make the sheriff ex-officio coroner.

Mr. FIFER (McLean). Something has been said in regard to the cost of the two offices, the labor involved in the duties of the sheriff, and the duties of the coroner will be exactly the same, whether the duties are performed by one officer or by two, and I take it the expenses will be exactly the same. Now, shall we cast the duties of both offices on the sheriff, or

shall we preserve the office of coroner and allow the legislature or general assembly to prescribe his duties? The cost will be exactly the same and the labor will be the same. The coroner is one of the oldest offices known to American law, and there are many good reasons, I think that could be urged why the office of coroner should be preserved. Under the present laws of this State it costs the people nothing, it is paid from the fees. One of the vital questions is as to whether it will be more expensive to the public generally. For myself I cannot see that it will, and I think it would be a good thing to keep these offices separate and to preserve the old office of coroner. There is suggested in certain instances the coroner succeeds to the office of sheriff when the sheriff is interested. I think the statute is, if I remember it correctly, that the coroner shall serve the papers.

Mr. WHITMAN (Boone). In some remarks that I made I emphasized the necessity of a physician being coroner. The gentleman that followed me made the remark that my remarks were not necessarily correct, because of the fact that in summoning the coroner's jury there had to be a physician on the jury. The gentleman is in error, and that is not the law in the State of Illinois.

Mr. DOVE (Shelby). I was under the impression that that was a legislative enactment, that it was mandatory. If it is not the law it is the universal practice to summons one physician upon the coroner's jury.

Mr. WHITMAN (Boone). There is nothing in the law that requires that there shall be a physician on a coroner's jury.

Mr. KERRICK (McLean). If I am correct about it, the question now is to pass upon first whether there shall be a county clerk who shall be clerk of the county court, whether that shall become a part of the Constitution of the State; secondly, whether there shall be a county assessor who shall be ex-officio county treasurer and collector of taxes, and thirdly, whether there shall be a sheriff to be ex-officio coroner, and so forth. Now, when the first one of these was considered, if I am correct in my recollection, the Chair said that the language in the three was the same, it was all right, and we took no vote on it. Then we passed to the next division, to the effect that a county assessor, who was ex-officio county treasurer and collector of taxes, and no vote was taken on that. I think the record will bear me out and we are now upon the third branch of that and no vote yet taken. I think the point of order should be made to the effect we should have voted on these matters as they were divided, and as they were considered and a vote taken on each portion by this Convention, otherwise the only vote we can take would be after all had been passed on after the division and then we would be voting for all, and could not help ourselves. Therefore, I make the point of order we should revert back to the consideration of the question as to whether or not "a county clerk who shall be a clerk of the county court" should become part of the Constitution. We cannot make a Constitution by acquiescence. The proper way is to take these up and pass upon them by a vote as to whether we shall adopt the first one, whether there shall be a county clerk who shall be clerk of the county court.

Mr. HAMILL (Cook). That was ruled upon, and if the delegate was not satisfied with it, he had his remedy.

Mr. KERRICK (McLean). Does the Chair rule that after the division had been called for and allowed, that we can take up the various parts, and then because no objection was made to the language they are considered adopted without a vote?

CHAIRMAN SMITH. I would say to the delegate from McLean, your point of order has been ruled on. In explanation I would say this: that the substitute offered by the delegate from LaSalle (Scanlan) does not differ from the minority report or the majority report in the details which you have just mentioned, namely, county clerk and county assessor. There is no difference in them until we get down to the word "sheriff," the clause "who shall be ex-officio coroner;" therefore, the Chair ruled that the division would not be taken until we got to a point in the substitute where a difference occurs.

Mr. KERRICK (McLean). May I inquire if there will be a further opportunity to discuss the question of "a county assessor who shall be ex-officio treasurer and collector of taxes?"

CHAIRMAN SMITH. Yes.

Mr. TRAEGER (Cook). The delegate from Boone (Whitman) evidently has a clear idea of the duties of the coroner. I believe it would be wrong and unjust to consolidate the sheriff and coroner in one and the same office. That might apply in the smaller counties, but it surely would be wrong for the larger counties, such as Cook and others of the large counties. I have had some experience in those offices, because I held them both in the County of Cook, and the difference is so great between the two offices I do not believe that the sheriff in a big county would have the time to perform the duties of coroner. In other words, he would have to establish a department to perform the coroner's duties, and therefore, I believe that the motion made by the delegate from LaSalle should be supported.

VOICES. Question, question, question.

CHAIRMAN SMITH. The question is on the adoption of the part of the substitute of the delegate from LaSalle to strike out "who shall be ex-officio coroner."

(Motion prevailed.)

CHAIRMAN SMITH. The ayes have it, and the clause "who shall be ex-officio coroner" is stricken out. The question now is whether to insert the words "and coroner" right after the figures "1924."

Mr. HAMILL (Cook). I quite sympathize with the point of view of the delegates who have spoken upon the importance of the coroner's duties. It seems to me quite unnecessary to provide for a coroner by the Constitution. It seems to me that could be easily left with the legislature. I am opposed to increasing the number of constitutional offices.

Mr. TRAEGER (Cook). The office of the coroner is now a constitutional office. It is one of the oldest offices we have in the United States. In fact we inherited that from the English law, from the word "crown," and I believe this is the proper place in the Constitution for that. I believe the office performs, as I said before, duties in the large counties that are of great importance to the people. In cases of homicide, and where frequently it is a hard matter to get at the cause, where the sheriff and the police investigate, the coroner is then also one of the investigating officers, and in fact is the highest in authority in police duty. The coroner's duty among other things, is the serving of writs upon the sheriff, such as replevin and processes of that kind, and I want to say personally I believe that the office should be continued by the Constitution.

Mr. HULL (Cook). I voted for the amendment offered by the gentleman from LaSalle (Scanlan), because I thought there was a point in the objection of tying up the coroner's office with the sheriff's office, but I am in hearty sympathy with the suggestion made by delegate Hamill of Cook county, that it is not necessary to tie this office into the Constitution. I am advised that in some states they have abolished the office of coroner and provided for a medical examiner, and while I do not anticipate there would be any speedy action of that kind taken on the part of the legislature, it seems to me it might be worth while to leave the door open for a change if such a change would be deemed desirable, and if it is desirable that all these offices should be made constitutional, so far as possible we should leave the door open when a change seems to be desirable.

CHAIRMAN SMITH. The question now is on the insertion of the word "coroner."

(Motion prevailed.)

CHAIRMAN SMITH. The ayes have it, and the office of coroner is inserted.

Mr. SCANLAN (LaSalle). If I understand the minority report it provides there shall be no recorder of deeds. In the Constitution of 1870 it was provided "that the clerk of the circuit court, who may be ex-officio recorder of deeds, except in counties having sixty thousand or more inhabitants, in which counties a recorder of deeds shall be elected to the general election

in 1884." Under that provision of the Constitution ten or twelve counties of Illinois have elected recorders of deeds. They have equipped their court houses for offices of that kind, and that office is regarded of more importance than the office of clerk of the circuit court. That is true in my county. Deeds are recorded there every day, and people have business of some kind in that office all the time. This will be continuing the provisions of the Constitution of 1870, in the counties that have them. There is no demand to abolish that office, certainly not from my county, and I do not know of any. I think it should be continued. In those court houses, they are equipped with the necessary vaults, and another part of the court house equipped for the clerk of the circuit court.

Mr. TAFF (Fulton). Is your amendment the same as the Constitution is at the present time?

Mr. SCANLAN (LaSalle). The only difference is this, the Constitution of 1870 said they would be elected in 1884.

Mr. TAFF (Fulton). Under this section, if my county has sixty thousand and one people it then could elect a recorder?

Mr. SCANLAN (LaSalle). If you have one more than that, you are entitled to a recorder.

Mr. TAFF (Fulton). Then, under that we would be required to elect an additional officer for one person. I say that the duties which are now imposed upon the circuit clerk, if they can be performed by him up to sixty thousand, they can be performed up to seventy thousand or any other number. It would simply mean adding another office. I see it is quite evident that the delegates are very ticklish about abolishing any office. It seems to me if we are going to make a short ballot in any way, shape or form now is one of the times we can start on this report. We are not abolishing the office in every county in the State by adopting the minority report on this proposition. There are eleven counties outside of Cook that have a separate recorder. Now, there may be one over sixty thousand inhabitants, creating a new office in that county which can be taken care of just as well under the plan reported by the minority and majority reports. I see no need of it. It simply means additional clerk hire for those counties, no need of a separation.

Mr. SCANLAN (LaSalle). My only object here is simply this, we do not want to be deprived of the recorder of deeds. If the gentleman thinks it should be raised to seventy-five thousand, as long as it does not take it away from the counties that now have it it is satisfactory to me.

Mr. KERRICK (McLean). McLean county is one of the counties which under the provisions in the present Constitution, elected a recorder. It has reached the population in excess of sixty thousand. There are a large number of employees, they are kept busy in the recorder's office in McLean county much busier than in the circuit clerk's office. The circuit clerk's office has all to do that it can. We have built a new court house during the period within which we were authorized to elect an additional officer, that of recorder. In constructing the court house I presume as much as forty or fifty thousand dollars was expended in so arranging it, in different parts of the building, that there would be the necessary rooms for the two offices and the matter that concerned those two offices. I have never heard a single word of complaint from the time of the election of the first recorder down to this date because of their being two offices in McLean county. I know I would hear complaints on every hand, and well founded and reasonable complaints, if by the act of this Convention we should with a strong hand abolish—that is what it amounts to—abolish an office which has been in operation since 1884 or shortly thereafter in some dozen counties of the State, and from no one of which I have heard any suggestion that they would like to have those offices consolidated into one. It would be practically confiscating property, and property in large amounts to abolish these offices.

Mr. HULL (Cook). What property would be confiscated, the job?

Mr. KERRICK (McLean). No, property worth thousands of dollars, furniture adapted to the recorder's office, and in another part of the building, and the building as I say, is constructed, framed and formed with reference

to the occupancy of recorder, with hundreds upon hundreds of volumes and valuable papers which are secured there in fire-proof vaults.

Mr. HULL (Cook). Whose property is this property?

Mr. KERRICK (McLean). It belongs to the people of McLean county.

Mr. HULL (Cook). It would still belong to the county if consolidated?

Mr. KERRICK (McLean). That is true. The recorder we now have, and the recorder *we will always have* since this office became an office in McLean county, is a man whose services, and the services required of him, are such that no man suitable for that office could be hired for one cent less than the salary now being paid the circuit court clerk. Neither could a circuit court clerk be found to do this work without hiring deputies equal to the expense if not greater, than the expense of the recorder of deeds, who has charge of this exclusively, and because of his exclusive charge can do it better and with greater safety to the county than any deputy of the circuit clerk. Of course it would have to be done by them. I can see no reason in the world, after this has been permitted to be done, it was done under compulsion, it might be said, and all these arrangements made, and no one complaining of it, in any of these eleven counties, why they should be changed. I have not had any complaints, nor my colleague has not had any. In fact, during the time I have been a member of this Convention I have not learned that it would be proposed to make such a change. I am certainly very decidedly against this change.

Mr. BRENHOLT (Madison). In support of the remarks of the gentleman who has just spoken, I have this to say: In the county in which I live, in Madison county, we built a court house at a cost of two hundred fifty thousand dollars. They provided a place for a recorder of deeds and the circuit court clerk. In providing this place they built suitable shelving arrangements to take care of the numerous books in the recorder of deeds' office. I heartily agree that these two offices should be separated. One thing I had in mind is that the matter of recording of deeds and of the many transactions because of changes of property in Madison county requires that the recorder of deeds often times be in his office when the circuit court clerk is engaged in other work, and therefore, I believe it would be folly to connect these two offices up when the necessity for the recorder of deeds is so apparent. (Applause.)

Mr. TODD (Peoria). I do not know as I can change any ideas that you men have, but I will say, I come from a county which has a recorder of deeds separate from the circuit clerk's office. Our court house was built before or about the time the last Constitution was adopted, so we have made no provisions especially for this office. However, I tried to think of combining those offices and then seeing the hundreds of people in our county who come into the recorder's office finding their way into the office of the clerk of the court, and I think it would work a hardship on those people if you consolidated those offices in the counties where they have already been established. I agree with my friend from LaSalle (Scanlan) if the gentleman who does not desire to have the recorder's office placed in his county, wants to raise the limit to seventy-five thousand or eighty thousand, I am perfectly willing it should be done, but I do not think we should disturb the relationship which now exists between those offices. Once more, there is a provision in this report of the committee that provides for instituting a new form of county government, and I think we should not disturb the present county government in this Constitution, but should leave the way open for such action as the legislature may later determine upon for a new form of government to take place in all the counties, and until that time comes I think we should keep our offices as they are.

Mr. TAFF (Fulton). In answer to the very generous offer made by the delegates on this subject, if I do not care for this to apply to my county they would be willing to raise the limitation as to the population necessary, I would say this in reply: I do not care for this section or any other section of the county article to be written for my county alone. I want it written for the State of Illinois and each county within the State, and in the best

manner that I think possible for the entire State, and not for my county alone. (Applause.)

Mr. FIFER (McLean). When we came here to make a new Constitution it was supposed we would make such changes in the present Constitution as experience pointed out and as the public requirement demanded. Now, if there has been any complaints in regard to keeping these offices separate, I have not heard it. Another thing, this question of the division of these offices does not affect the county in the State with a population of less than sixty thousand, and I believe the representatives on this floor from counties over sixty thousand are unanimous in their demands or wish that these offices remain separate. Now, why should delegates representing counties not affected by this question in any way force on us a provision in this Constitution which experience teaches us is desirable and that the people are entirely satisfied with and wish to continue? Now, it is like the question of the coroner and the sheriff again. It will not lessen the labor to be performed, and the officers are paid out of the fees. If a man has a deed recorded he is expected to pay the reasonable charge, and it makes no difference to the public whether it is paid to the circuit clerk or whether it is paid to a recorder, and it seems to me that those representing counties of over sixty thousand should have their way about it, because they have come in contact with the actual experience of the situation, and I agree with my colleague, that our people are entirely satisfied with things as they are now, and would regret exceedingly if the duties of these offices were cast upon the circuit clerk.

Mr. GRAY (Adams). I wish to say the county in which I live has a population of more than sixty thousand. We have had for several years a recorder of deeds, and as has been said by the gentleman from McLean (Fifer) there has been no complaint at all, and the fact there are a large number of transactions, changing of property going on continuously has built up a large business in the office of county recorder. Provision has been made for taking care of all the books and the work connected with the office, and I took the same position in the committee that I now take, that I believe it would be unwise and unpopular as well for this Convention to change the present Constitution so far as providing for a county recorder in counties having sixty thousand population or more. I therefore shall vote for the amendment suggested by the delegate from LaSalle (Scanlan). (Applause.)

Mr. CARLSTROM (Mercer). My county is not one of the counties, because of its population, that has a recorder and circuit clerk, but in my district is Rock Island county, and Rock Island county has a recorder and a circuit clerk. I have had occasion to go into the offices of both frequently in the last few years, and I know, gentlemen of the Convention, that the people of Rock Island county will feel earnestly and sincerely they have been done an injustice if we vote away from them the privilege of conducting the business of these two offices in the manner they have been accustomed during the several years to conduct them. There is, as has been said, in my opinion no demand for this change. I do not believe, gentlemen, we have come here to tamper with existing institutions in Illinois about which there is no substantial desire or demand for change. I cannot see, as was suggested by the gentleman from McLean (Fifer) where it affects anyone, in view of the fact the office of recorder of deeds and circuit clerk are self-sustaining. They pay balances over and above their salaries from the earnings of their offices, and this is the popular way of transacting the business of the two offices in counties where the population is sixty thousand or more. George Gamble, the circuit clerk of Rock Island county is the oldest clerk in point of continuous service in the State of Illinois, and there is no more obliging gentleman in public office in the State of Illinois, and I have talked with him about the situation in his county. The recorder of deeds, Mr. Ryerson, is a younger man, and they are both handling their offices to the satisfaction of their people. I urge you not to abolish this situation which they want continued. There are only twelve counties in the State where the necessity for this division arises. I do not believe, my friends, that we should take away that right, simply for the purpose of making a change

here, from those who want to retain it. The matter of shortening the ballot is a matter of practically no consequence in connection with this question. I want to say this much for Rock Island county—it is not my county, but one of the substantial counties in Illinois—they have not asked us to change but asked us not to change, and I believe it will be a mistake to make the change suggested. I will vote for the amendment offered by the delegate from LaSalle (Scanlan).

Mr. TRAUTMANN (St. Clair). Mr. Chairman and gentlemen of the committee. Coming from one of the large counties down State, I want to add my testimony. I do not know whether we will hear from the county of Sangamon after I get through or not, but it does seem to me, gentlemen, as long as there is no complaint made in these counties that now elect a recorder, I do not see why the gentlemen from the smaller counties where they do not elect a recorder, and from the large County of Cook, which county we so generously excluded this morning from coming under the operation of this section, why they would ask us now to consolidate the office of recorder and circuit clerk, when I am satisfied there is absolutely no demand from the people of the counties that elect these officers, who pay for them and pay for the costs for electing them, if any, and it does seem to me, if we adopt the provision in the present Constitution that the people will be satisfied in the counties where they do have them. I believe the business of these two offices could be better conducted if separated. The larger the county the more business in the circuit clerk's office and the recorder's office. Now, some gentlemen have said that you could consolidate some of these offices. If that is true why not consolidate all of them? What is the use of having a circuit clerk and county clerk? I do not know why, if you are going to consolidate them. Certainly one man could conduct the business of circuit clerk and county clerk better than circuit clerk and recorder. They are more similar, along the same line, and there has been no attempt made to consolidate those offices by the smaller counties of the State where they are separate. As long as there is no complaints from a single county where they have these offices, I believe it should remain as it is at the present time.

Mr. PADDOCK (Sangamon). Sangamon county has a recorder, and she desires to retain it, and there is no demand to repeal it at all.

Mr. MILLER (Macon). Macon county has been looking and longing for just that sixty thousand, and we believe we have got it, and we want the recorder and the circuit clerk.

Mr. JARMAN (Schuyler). I think probably I ought to make some explanation of the action of the committee. The committee has no pride about this matter. It is perfectly willing for this Convention to do what it pleases in the matter, but the situation before the committee was this: There are a number of counties under the new census that would have over sixty thousand population, and in counties of fifty thousand population these two offices are combined, and there is no reason why they cannot work together. It is not a matter of court house arrangement, it is not a matter of confiscation of property. It only amounts to the loss of a job, and there is all there is to it. Now, if the two offices can be directed and carried on in a county of fifty thousand it can in a county of seventy-five thousand, just as well. We had before the committee, for instance, an official of Sangamon county, and we put that question to him, and he said it could be done, he saw no reason why it should not. We had an official before us from Cook county, and he said it was very proper, and that they ought to be consolidated. Colonel Davis has been recorder in Cook county, and he has had sufficient experience to know whether they can be consolidated. There is no reason it should not be the same in counties of seventy thousand to one hundred thousand and if it can be the same in counties of fifty thousand. It simply means some arrangement with reference to clerk hire.

Mr. DAVIS (Cook). In the same spirit of helpfulness, which I know the delegates outside of Cook county shall be willing to help us in framing provisions affecting Cook county alone, I venture to make this suggestion. The gentleman from Fulton (Taff) said that he is willing to respect the wishes of the counties which now have recorders, but he did not see any

reason why the Constitution at this time should insert a provision which would give an additional office to such counties as did not have that office now, and I believe that his views can be well taken care of by amending the substitute which has been offered by simply inserting the following words after the words "ex-officio recorder of deeds" in the minority report by adding these words: "except in counties which have been electing recorders heretofore, and in such counties a recorder of deeds shall be elected." I do believe, gentlemen, we can afford to be fair with each other. I am human enough to realize that one of the motives which has prompted some of the delegates on this floor to suggest the retention of recorder of deeds is a desire not to offend the present incumbent and the aspirants for successors of the present incumbent. It is at least one of the reasons, and I am human enough to recognize it, but I cannot afford to remain silent when the question is discussed on its merits. For eight years I occupied the position of recorder in the largest county in this State, and was at the head of the largest office of recorder of deeds in the United States. Our employees numbered two hundred fifty. I want, by way of evidence, to submit, that at least the clerk of the circuit court could have run the office of recorder of deeds at the same time he ran his own office, and I venture the suggestion I might have been able to run the office of circuit clerk while I was running my office but the temper of this Convention is not for abolishing any jobs, and I am practical enough to recognize it when I see it. I do not think we should take any action by inserting any provision in this article giving more jobs than at the present time, and if the gentleman from Fulton (Taff) feels this amendment expresses his view, I would like to offer it as a substitute for the amendment offered by the gentleman from LaSalle.

CHAIRMAN SMITH. The Chair rules your offer is out of order at this time.

Mr. DAVIS (Cook). Perhaps you are right; that is not a novel experience, however.

CHAIRMAN SMITH. The question is on the adoption of this division of the substitute of the delegate from LaSalle.

(Motion prevailed).

CHAIRMAN SMITH. This portion of the substitute is sustained. The question is now on the adoption of the substitute, as amended.

Mr. HAMILL (Cook). If the motion of the gentleman from LaSalle was to substitute the matter offered by him for the whole proposal offered by the minority report, then it is in effect a motion to strike out the proviso in the minority report. If the motion was to substitute only for that portion of the minority report preceding the proviso, then it is not a motion to strike out. Is it the intention of the delegate from LaSalle to offer his substitute as a substitute for the whole report, or only so much as precedes the proviso?

Mr. SCANLAN (LaSalle). It is to take the place of the minority report.

CHAIRMAN SMITH. The question is on the adoption of the substitute offered by the delegate from LaSalle (Scanlan).

Mr. DAVIS (Cook). Before a vote is taken, I would like to have a ruling whether my motion is in order now, or after the substitute is adopted.

CHAIRMAN SMITH. The Chair would hold there will be an opportunity for your amendment after this is disposed of.

Mr. JARMAN (Schuyler). If the substitute is adopted, where can I get a chance to introduce this proviso?

CHAIRMAN SMITH. It would seem to the Chair there would be adequate opportunity to offer this amendment at a later time, even though it might have to be offered as a separate section.

Mr. JARMAN (Schuyler). When are we going to get an opportunity to discuss the question of the division of the office of treasurer, assessor and collector if you adopt this substitute?

Mr. LINDLY (Bond). The question now is on the adoption of the substitute as amended. When they adopt this as a section of the Constitution or the minority report, then other amendments would be in order.

Mr. DUNLAP (Champaign). I raise this question: when the matter was first proposed by the gentleman from LaSalle (Scanlan), if he offered it as a substitute it was out of order, and the Chair ruled it was an amendment, and the only way it could be regarded in a parliamentary way was as an amendment, because there existed before this body a substitute in the form of the minority report, so the gentleman's motion from LaSalle is an amendment to the minority report, and the question is, shall the minority report be adopted as amended. I understand there is a pending motion before that to strike out that part of the minority report which refers to sheriffs and assessors succeeding themselves in office.

Mr. SCANLAN (LaSalle). I offered that as a substitute for the minority report.

CHAIRMAN SMITH. It seems to me after deciding this question of substitute for the minority report, the question will revert back to whether the amended minority report shall stand as a substitute for the majority report, so I think the question will revert back as stated, and at that time other amendments may be offered.

Mr. HAMILL (Cook). The pending question is upon the minority report to strike out the proviso. His substitute excludes the proviso of the minority report relating to the reelection of sheriff and treasurer.

CHAIRMAN SMITH. It seemed to me the most practical way would be to discuss this question of succession of sheriff and treasurer at this time. However, the delegate from Cook talked me out of it, and I think technically he is right, but for practical purposes the Chair will hold the next division of the question will be whether the proviso prohibiting the succession in office of sheriff and treasurer shall be sustained or not.

Mr. JARMAN (Schuyler). As a member of the committee signing this minority report with reference to the sheriff and treasurer succeeding themselves, I just want to say a word. We all know, as stated, that the present Constitution has this provision in it. I objected to making any changes in this regard. As you know the present Constitution was adopted in 1870. This proviso was not passed by the Constitutional Convention, but was passed by the legislature in 1879, and was adopted by the people in 1880, so it was added to the present Constitution ten years after its adoption. I have found in talking with older men who were familiar with the situation at that time, that there were many reasons for the adoption of this amendment to the Constitution. There had grown up in the State many abuses in these two offices. The sheriffs of many counties had created such a political organization that it was absolutely impossible to get them out of office, and they abused the duties and privileges of the office. The same thing was true with reference to the office of treasurer. Now, that is an experience.

The safest rule in the formation of a Constitution is from the standpoint of experience. I find also that this experience not only was in this State but it has been in many other states of this Union. I find in consulting the Constitutions of the different states that it prohibits the sheriff from succeeding himself in the following states: Indiana, Kansas—and this amendment to the Kansas Constitution was adopted in 1914 by a special vote—Kentucky, Maryland, Michigan, Mississippi, New York, Ohio, Pennsylvania, Washington, West Virginia, Wisconsin and Illinois. I also find with reference to the office of county treasurer that the following states prohibit the treasurer from succeeding himself: Indiana, Kansas, Maine, Mississippi, Montana, Nebraska, Ohio, Pennsylvania, Washington and Illinois. Now, we have the experience of these different states. Now, it is said there is no more reason why a sheriff and treasurer should not succeed themselves than any other officers in the county. Experience has not shown that, and it has shown it not only in this State but the thirteen states I have mentioned to you. It is also stated there has been no trouble in the last few years about the sheriff and the treasurer, and that is true, but why? I think there has been no trouble simply because we have this provision in the Constitution, and if we had not had it, human nature being

the same, we would have the same trouble with reference to these offices as we had prior to 1880.

What is the demand that this provision shall be taken from the Constitution? Not from the people, the people cannot be hurt. No interests of the people will be jeopardized, but the demand comes from the organization of sheriffs and treasurers of the State who were before this committee in large numbers insisting that this article should be stricken out. Why? Simply because it affected their own offices, and not in the interests of the people, and never has been in the interests of the people. It simply attempts to take from the present Constitution a provision in order to permit the present persons holding these offices to succeed themselves. I think it would be a great misfortune to take this out. I think we should follow the Constitution as it is. No harm could come from it.

Mr. MAYER (Cook). This is the first time in some weeks I have had the privilege and opportunity of talking to you. I am conscious of the fact that Cook county ought to let the other counties of the State do what they think is right and best in their local administration, but I am a little bit at this time in the position of Colonel Davis. For many years my firm has been almost continuously counsel for either the city treasurer or county treasurer of Cook county. My remarks do not apply to the Sheriff, but I regard it as one of the safest and soundest precautions that the county administrations of this State can adopt to make the one who holds office of treasurer ineligible for immediate reelection. In the case of E. S. Dreyer, who was one of the treasurers of the City of Chicago, public treasurer, and for whom we were counsel, the wrongdoings in his office would probably never have been discovered if he had been officially entitled to reelection. It has worked very safely and imposed efficiency to deny to the treasurer the right of immediate re-election. The time to count the public funds and public securities in the possession or under the control of a public treasurer is when his term of office expires. If he is made eligible for re-election the time to count the funds and check up the securities in his possession is postponed four years and works a possibility for public plunder, and creates a tremendous liability and obligation on the bondsmen, who were such during the first term of office. Very few questions have come before our courts in connection with the liability of bondsmen more complicated or more difficult of legal solution than the assessment of the liability of the bondsmen of a treasurer, where that treasurer has held over in office, whether a public or private treasurer. I speak entirely uninfluenced by any personal desire either to curtail the ambition of present office holders or to restrict their ambitions, but I urge upon this Convention both for the benefit of the treasurers who are in office, as well as for those who may hold office hereafter, and also for the benefit and protection of the public and the sureties on the treasurers' bond. What I have said probably does not apply to a sheriff, but I urge upon the members of this Convention not to make a public custodian of funds eligible to immediate reelection. The public safety and the interests of the State and the taxpayers, in my opinion, require that such eligibility should be denied.

Mr. BRENHOLT (Madison). Is it not a fact that this man Dreyer, that you spoke of, was not county treasurer of Cook county, but treasurer for the West Park Board?

Mr. MAYER (Cook). Yes, but had he not been eligible for reappointment, the people of Cook county would not have lost about one-half million dollars in public funds, and the sureties to the extent they were holding liable would have been able to have responded to the public, but as it was, the defalcation not having been discovered until after the expiration of the first term, the sureties were not able to respond in toto; if Mr. Dreyer had been checked up, there is no doubt in my mind that the temptation which led to his misconduct in office would never have occurred. Mr. Dreyer would never have been sent to the penitentiary, his bondsmen never would have been called upon to respond and the people of Cook county would not have lost close on to a half million dollars.

Mr. BRENHOLT (Madison). Isn't it a fact the treasurer of Cook county is checked semi-annually by the county auditor? Are you aware of that?

Mr. MAYER (Cook). Yes, also aware of the fact that the county treasurer and the members of the board of county commissioners being usually of the same party there is not that same efficient over-hauling and checking up as would exist if, as the statute provides, an outgoing treasurer must turn over to his successor all of the public funds and public securities. There is no way in my opinion, gentlemen, for checking up except by cutting off the office when the term expires.

Mr. BRENHOLT (Madison). I wish to say it has been my experience the treasurer and the sheriff have a chief deputy, and they rotate. The first four years the treasurer has the office, then he goes back to the office of chief deputy and the chief deputy is treasurer, and four years hence they change again, and the same condition applies to the sheriff.

Mr. MAYER (Cook). That is not the practice in Cook county, but even if it were so, the sureties have the opportunity of having the funds checked up and the balances in the bank checked against the balances on the books, all the securities itemized, examined and a discovery made if there be a shortage. I have no desire to keep anybody out of office by reelection, but in my opinion a mistake will be made if we provide for immediate reelection.

Mr. SUTHERLAND (Cook). I would like to ask Delegate Mayer this, whether it would be sufficient to permit the reelection of a treasurer providing that we also insisted in the Constitution upon an independent audit at the expiration of his term and a change of sureties, whether that would be an adequate safeguard.

Mr. MAYER (Cook). It would not. The change of sureties would not afford protection, because complications arise in determining when the shortage occurred. If you will turn to the law books and read the suits against the sureties of treasurers where their terms have been successive and consecutive you will find the difficulty of the ascertainment when the defalcation occurred, for the sureties in the first term will assert and contend that the shortage took place in the second term, and the sureties in the second term will make the converse contention as against the first term, and in any action against the sureties on the bond, the bond being the contract, no suit can be begun which joins the sureties on both bonds. In the City of Chicago, almost before I begun the practice of law, with reference to a city treasurer, Gage by name, the litigation went to the Supreme Court a number of times, and the City of Chicago on account of a second term of office had complications which were never overcome, with the result that the City of Chicago never succeeded in getting from the sureties indemnity. Mr. Sherman and other sureties on the bond went into bankruptcy, and all the City of Chicago got was what is known as the Gage farm, which was for many years more or less of a butt in politics, as to who should run the farm for the least money.

Mr. CRUDEN (Cook). I fear that the speech of the delegate from Cook (Mayer) has made a very deep impression on your minds with reference to county treasurers, at least. I differ from him somewhat, and I was one of the gentlemen in this Convention who introduced a proposal to permit treasurers and sheriffs to succeed themselves, and I still maintain that is safe in Cook county. This article does not apply to Cook county, and yet I fear it would have a great influence on the county committee that is to make a report on the provisions for Cook county. I introduced a proposal feeling that plenty of precautions were now in force in Cook county to permit that being done. I also introduced a proposal for the reelection of State treasurer, making his term four years. It seems to me, as indicated by the speakers, that this should not apply to treasurers at this time, so I recommend that we strike from the provision of this minority report the words "sheriff of."

Mr. WALL (Pulaski). I wish the Convention would not overlook the fact that there are seventeen small counties down State not under township organization. In those counties the sheriff is *ex officio* collector of

taxes. When he goes out of office he makes a report as sheriff and collector. In some counties he collects two hundred thousand dollars and in others four hundred thousand dollars in taxes. Probably the average of the entire revenue in these counties would be about three hundred thousand dollars a year. My observation is, and I have had about thirty-five years pretty close observation, in three of those counties, that they never make a settlement with the collector of the taxes until after the election of their successors. I think the distinguished delegate who first addressed us on this question, who was a member of this committee, is playing safety first, and when he makes the remark to this Convention that there is no demand from the people for a deviation from the present Constitution, that that remark is so full of truth that no delegate to this Convention can stand up here and say he has heard any persistent demands from any county in the State to change the present Constitution on the subject we are now discussing. We can get good men to run for sheriff if they only hold for one term, and get splendid men to run for treasurers. There will be no inducement among those officers who probably are not financially able of their own resources to run again to succeed themselves. There will be no inducement to use the county money for the purpose of again getting the same position by being reelected. I want to say to this Convention I believe in that principle of law, that every man is presumed to be honest until shown to be dishonest, is presumed to be truthful until shown to be otherwise, but my experience in these matters is that while we stand upon those principles, in practices they are far from being always true. I know of two counties in the last ten years where the sheriffs in both of those counties have been defaulters, and the total sum of the defalcation amounted to more than forty-five thousand dollars, and I say the inducement to put off the day of settlement, as mentioned by the distinguished delegate from Cook (Mayer) the inducement to keep a different character of books upon a different principle of bookkeeping is something to be considered in connection with the question we are now discussing. Since there is no demand from the people, since the people are entirely satisfied, since the only demand there could be would be from some party who wanted to succeed himself, why should we take a step that has about it the remotest degree of danger or risk or uncertainty? Why not go ahead as we have with entire approbation of all the people of the State, yes, and the interests of the people of the State, and leave it as it is?

Mr. TODD (Peoria). I would like to move you, sir, that the committee rise, report progress and ask leave to sit again.

(Motion prevailed.)

(President pro tem. Shanahan presiding.)

Mr. SMITH (JoDavie's). Your committee desires to report progress and asks leave to sit again.

(Report adopted.)

Mr. BRENHOLT (Madison). I move we adjourn until tomorrow morning at nine o'clock.

(Motion prevailed.)

Whereupon an adjournment was taken by the Convention to Wednesday, May 19, A. D. 1920, nine o'clock a. m.

WEDNESDAY, MAY 19, 1920.**9:00 o'Clock A. M.**

The Convention met pursuant to adjournment.

The President in the chair.

Prayer by the Chaplain, the Reverend S. Willis McFadden, of Springfield, Illinois.

THE PRESIDENT. The Journal of Thursday, May 13, 1920, having been printed and placed on the desks of the members is now subject to correction. There being no corrections proposed the Journal of Thursday, May 13, 1920, will stand approved, and it is so ordered.

Whereupon the Convention proceeded upon the order of special orders of the day, reports of standing committees.

Mr. SHANAHAN (Cook). Your Committee on Legislative Department submits a report.

Your Committee on Legislative Department to which was referred sections 1, 2, 3, 4, 5, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 27, 28, 30, 31, 32, 33 of Article 4.

Reports the same back with a substitute therefor, being a proposal for the above sections of Article 4 of the present Constitution.

And recommends that the original sections above numerated, be rejected, and that the substitute Proposal No. 366 be placed on the General Orders.

Signed. DAVID E. SHANAHAN,
JOHN E. TRAEGER,
GEO. P. LATCHFORD,
CICERO LINDLY,
JOSEPH W. FIFER,
MORTON D. HULL,
FRANK J. QUINN,
THOS. RINAKER,
JAMES H. PADDOCK,
EDWARD H. MORRIS,
H. M. DUNLAP,
GEORGE A. BARR,
LEE MIGHELL,

Committee.

THE PRESIDENT. Under the rules the report of the committee will lie upon the table and be printed.

Whereupon the Convention further proceeded upon the order of introduction of proposals, first and second reading of proposals, motions and resolutions, unfinished business, and general orders of the day.

THE PRESIDENT. When the Convention adjourned on yesterday the hearing of the report of the Committee on County and Township Organization was proceeding. The Convention will now resolve itself into the Committee of the Whole for the purpose of a further hearing upon the report of the Committee on County and Township Organization. The Chair designates Delegate Smith, chairman of that committee, to act as the chairman of the Committee of the Whole.

(Chairman Smith presiding.)

CHAIRMAN SMITH. The secretary will read the minutes of the previous session.

(Secretary reads minutes.)

CHAIRMAN SMITH. In order to make the record correct under our rules, the Chair will hold that the question now is upon the adoption of the substitute of the delegate from LaSalle (Scanlan).

Mr. GALE (Knox). I desire to ask whether that substitute as offered here was not taken up section by section and voted upon entirely, so now what stands before this committee is a minority report as so far amended, in accordance with the suggestions of the delegate from LaSalle (Scanlan), instead of upon the substitute offered by the delegate from LaSalle as a whole.

As I understand, Mr. Chairman, the ruling of the Chair yesterday was that the substitute offered by the delegate from LaSalle (Scanlan) was divided, and that we voted upon these things one at a time, thereby making the minority report as offered here a section by itself, with the various amendments offered by the delegate from LaSalle, and if that is now the parliamentary situation, and the reason I ask is this, Mr. Chairman: If that is the situation we now have a right to offer other amendments to the minority report. The minority report stands here also as an amendment. The substitute offered by the delegate from LaSalle, if it stands entirely as a substitute, is an amendment to an amendment and precludes any other amendments; whereas if it is divided, as it was divided yesterday and voted on by these various sections, those amendments to the minority report have now been adopted, and further amendments to the minority report are now in order. I had hoped that was the situation, because I desired to offer an amendment to the minority report with reference to the county assessor, which amendment I could not offer yesterday because of the parliamentary situation.

CHAIRMAN SMITH. The Chair would hold if the substitute by the delegate from LaSalle (Scanlan) is treated as an amendment, it is a motion to strike out and insert, and could not be divisible. That would preclude classifying that as an amendment to the minority report. The Chair will have to hold that the question is on the adoption of the substitute as a whole. Later, when the motion recurs on the adoption of section six, as amended, the amendment you refer to will be in order.

Mr. GALE (Knox). Then I rise for information. When such an amendment is offered should it be offered as an amendment to section six of the majority report or to the section of the minority report?

CHAIRMAN SMITH. To the majority report, I would say.

Mr. JARMAN (Schuyler). What becomes of the amendment offered by me with reference to the sheriff and treasurer succeeding themselves?

CHAIRMAN SMITH. I would say to the delegate from Schuyler, in order to bring that question up it might be brought in as an amendment to section six, when the question recurs on the same. The question is on the adoption of the substitute.

Mr. HAMILL (Cook). When the committee recessed last evening it was pending on the motion of the delegate from LaSalle to amend further the minority report by striking out the last three lines of section six as recommended by the minority report, reading, "Provided that no person having once been elected to the office of sheriff and assessor," and so forth.

CHAIRMAN SMITH. In order to comply with our rules the Chair would have to hold that that division is out of order because the substitute of the delegate from LaSalle is silent on the subject. I suggest that the only way for the question to recur on that subject would be to bring up the question when it recurs on the adoption of section six as a majority report. I would suggest in adopting this substitute, even though there may be certain clauses in same that do not meet with the approval of the delegates, they will have an opportunity at the proper time later to offer amendments that will take care of the difference of opinion.

Mr. JARMAN (Schuyler). If that is the situation, I offer the following amendment:

Mr. TRAUTMANN (St. Clair). Point of order. I understand the majority report is not before this house in that form where it can be amended. We have a majority report, minority report and the substitute. The Chair has ruled time and again there can be no amendment in that situation. If I could not offer an amendment to the amendment of the gentleman from

Knox and the gentleman from Cook, I do not see how the gentleman from Schuyler can.

CHAIRMAN SMITH. The point of order is well taken. The question is on the substitute of the delegate from LaSalle, as read.

(Substitute adopted.)

CHAIRMAN SMITH. The question now is on the substitution of the minority report for section six, as amended.

Mr. JARMAN (Schuyler). I now offer as an amendment to section six of the majority report the following: Add to the end of amended section six these words: "Provided that no person having once been elected to the office of sheriff or assessor and treasurer shall be eligible to such office for four years after the expiration of the term for which he shall have been elected."

CHAIRMAN SMITH. The Chair would suggest to the delegate from Schuyler it might be a better order of things to defer that amendment until the question concerning the conflict of the offices is settled, namely, that of assessor and ex-officio treasurer.

Mr. JARMAN (Schuyler). I will withdraw that amendment at this time for this reason, because it is uncertain as to what the Convention will do as to assessor and treasurer, and therefore the amendment that I offer including both offices perhaps ought to be offered later when that question is decided.

Mr. GALE (Knox). I now desire to offer the following amendment, and I desire to ask the Chairman first whether this should be offered as an amendment to the majority report or minority report?

CHAIRMAN SMITH. To the majority report.

Mr. GALE (Knox). Then I desire to offer the following amendment: Strike out the words in line five of section six article ten "county assessor who shall be ex-officio;" also strike out the word "and" as it appears in said line five and substitute therefor the words "who shall be ex-officio," so it reads "and county treasurer," and then strike out the words "collector of taxes who shall be ex-officio collector of taxes" and also in the amendment insert at the end of section six the following, "there shall also be a county assessor who shall be selected as the General Assembly may direct."

Mr. Chairman, that amendment will make this read, "so there shall be elected a clerk who shall be clerk of the county court, a county treasurer who shall also be collector of taxes," and then go on with the balance down to this language, "and then there shall also be a county assessor who shall be selected as the General Assembly may direct." The idea of that amendment Mr. Chairman, is to leave to the General Assembly the question of a county assessor and the proper way of selecting him, and to avoid putting into the Constitution the necessity of elective county assessor. I quite agree with the members of the committee, both majority and minority, who felt there should be a county assessor, but it does seem to me, Mr. Chairman, that the county assessor should be left to the General Assembly to determine whether he shall be elected or whether at some future time there may be a change made. I have no doubt at the present time the General Assembly would provide for his election, but at some future time it may be the wish of the General Assembly to adopt a unified State administration of its revenue system, and if it does it should have the power to provide that the county assessor shall be such officer as it sees fit, whether an officer of the State taxing department or what, and it is the present provision of the revenue article, if the chairman will permit me to call attention to it, the first section of article nine that leaves it to the General Assembly to determine how the assessment shall be levied. It provides for a tax by valuation, and then says "such value to be ascertained by some person or persons to be elected or appointed in such manner as the General Assembly shall direct, and not otherwise." Under that section at the present time the General Assembly could, if it saw fit, provide for county assessors and provide that they should be part of the central State tax administration, or that they should be elected in each county. They have not seen fit so to do, and it seems to me that this Constitution should leave the General Assembly free to act in that matter of a county assessor as they see fit. The county assessor, if one is chosen, will

be one of the most important single officers that the county has got, unless possibly the circuit judge. Nobody else will compare with him in power and authority, in the influence which he will have, and exert upon the lives and property of the citizens of his county, and it ought to be left by this Constitution to the General Assembly.

Mr. DUNLAP (Champaign). May we have that read?

THE SECRETARY (Reading). Amend section of the majority report by striking out the words "county assessor who shall be ex-officio" in line five of the minority report, also the word "and" between "treasurer and collector;" at the end of the section the words "there shall also be a county assessor who shall be selected as the General Assembly may direct."

Mr. BRENHOLT (Madison). On the question of county assessor, I might say about five years ago I had a little experience in Madison county as a member of the board of review. There is a clamoring demand all over the State that there should be some action taken in the Constitution with reference to making and levying of assessments. I believe that the result that the people are anxious to have could be gained by having a county assessor. It never was the intention of any one I have ever consulted that this matter should be purely set out in the Constitution as an officer and coupled up with some other officer in the county, but we believed in the association of which I am a member, at the Convention in Peoria last year, a convention of some six hundred delegates, it would be well to have a county assessor and let the legislature fix the duties and the manner in which the office is conducted. I believe it is time in the Constitution to determine when a man owns a business in Madison county or another man may own a home in La-Salle county that he should know upon what valuation his property is being assessed. I do not believe that it is right that in many of the counties of the State property is assessed at a percentage of 50 to 60 per cent, and in others 70 per cent, and in other counties 100 per cent. If that condition is allowed to go on it brings about the condition that exists today, the dissatisfaction among the tax payers of the State. I believe if there was a county assessor established in the county, under the jurisdiction maybe of the State Tax Commission they could be brought together with a view that the man who owned a Packard automobile in Cook county or in St. Clair county, it would at least be put upon the tax books at some figure that is uniform. As it is today in many of our counties real small cars like Fords and Maxwells are assessed at a greater valuation than the high-priced cars, and it makes the people dissatisfied, and they say they ought to get relief. With respect to the assessors, this plan of coupling up the office of assessor with that of treasurer would never work. The same qualifications are not necessary for the two offices. The county treasurer is an accountant and should have some banking or financial ability, while the assessor is a man who must know something about property, or inform himself on the subject, so that he can make a just and fair assessment and spread it upon the books against the people. I heartily favor a county assessor, but I do not believe it would be good policy in the Constitution to make the two offices of county assessor and county treasurer together.

Mr. JARMAN (Schuyler). I think some member of the committee should say something with reference to this provision. The committee considered all these questions presented here. Now, as I understand this amendment, the difference is that under the report of the committee an assessor of the county is provided, but it is combined with the duties of treasurer and collector. The amendment provides for an assessor but leaves it to the General Assembly as to whether that assessor shall be appointed or elected. Now, in the first place, I do not think it is proper to leave that to the legislature; as indicated by the delegate from Knox (Gale) because if the county is to be the unit of assessment, some one from the county should do the assessing. It should not be possible for the legislature to appoint somebody from an outside county to make assessments of the real and personal property of a county. That was tried in the state of New York, and the people were very much opposed to it. It was afterwards remedied in the Constitution of 1915.

People will not permit an assessor of the county property being appointed outside the county, which is possible by this amendment. Now, it is said that the State taxing body might want to combine these matters and have the assessor outside the county so it would get together under one organization. The same thing could be done if the assessor is appointed from the county. There can be an accommodation and coordination so that the assessment in the different counties can be provided for in that way. Now, there is just as much reason for the Constitution providing for an assessor and whether or not he shall be elected or appointed, or otherwise, than there is for these other offices. Under the present Constitution in counties under township organization the treasurer is the collector of taxes, so there does not seem to be any inconsistency there. In counties under commissioners' form of government, the treasurer is the assessor and the treasurer, so there does not seem to be any consistency in the duties of those offices in those counties. The object of the committee was to join the duties of these different offices so as to avoid the necessity of electing or appointing or creating another office in the county. There is no reason in the world, no matter how much work is attendant upon these offices why one man should not attend to all with the proper assistants to perform the duties.

This idea of creating so many offices in counties so each office shall be a petty office, and drawing very little salary I think is a mistake. If you create this office you have an assessor who has to deal with the tax books, you have a treasurer who is collector of taxes who has to deal with the same books and handle the money coming from the taxes, who of course will appoint proper assistants in different parts of the county, perhaps in each township. Therefore, he will have the proper assistance in making the proper assessment, but he will have absolute authority in supervising it, so that the equity of the assessment may appear in the assessment of the property in different counties. The assessment of real estate is only once in four years, the assessment of personal property is every year.

Mr. BRENHOLT (Madison). The law is now that you can take up the question of real estate in off years on complaint before the Board of Review.

Mr. JARMAN (Schuyler). That is simply incidental, but comparatively all of the assessments are made every four years. Now, the collection of taxes covers two or three months in the year, the assessment of property only covers two or three months of the year, and the treasurer's duties only cover about a month in the year, when there is anything to do. No matter how much work there is to do, can't he appoint all the proper assistants and be at the head of it? And then have a substantial office which will attract men of capacity to that office which will pay a substantial salary? The great objection to it is the creation of a new office which will still be an inferior office, though an important one, whose work will only cover two or three months in the year. Therefore, the committee thought best to join these offices, and I still think so, and I hope the amendment will be defeated.

Mr. SUTHERLAND (Cook). It seems to me there is one important objection to combining the two offices of county assessor and county treasurer and collector. The business of making an assessment is expert business. The people in receiving that service are entitled to have it given to them by a man who has had as broad and long an experience as possible. As the delegate from Cook (Mr. Mayer) pointed out last evening, what to my mind were insuperable objections to allowing the county treasurer and collector to succeed himself. The delegate from Rushville (Jarman) is of the same view as the delegate from Cook (Mr. Mayer) on that point, but, Mr. Chairman, it is almost impossible to have an assessor who shall be an experienced man and a man of expert ability in his line if you are going to compel that work to be done by an official who can succeed himself. It seems to me it is wise also to leave the method of selection to the General Assembly. That is what the present Constitution does. The delegate from Rushville (Jarman) says that the people do not want an appointive county assessor. I think he may be right. If that is true you will not find the General Assembly going contrary to the wish of the people in that particular. They have had that opportunity since 1870, and they have not availed themselves of that oppor-

tunity. In the state of Ohio, where in one year, under stress of administrative pressure a bill was put through for a highly centralized piece of state taxing machinery, with the local assessors appointed from the top down, instead of being chosen by the localities, there was a great deal of popular discontent, and the succeeding session of the General Assembly amended that act so that the assessors now are locally chosen. It is a matter of public sentiment and a matter of practicability, and those two questions can be left safely for determination in one place, and that is the General Assembly. This is a representative government, and if we believe in representative government we must allow it to be representative and not choke the legislature to death in its power. I sincerely trust the amendment of the delegate of Knox (Gale) will prevail.

Mr. KERRICK (McLean). We have never had any real assessment in this State. The time has come when we must have such assessments, when it will not merely be a perfunctory matter, when someone competent to do so shall devote his time, energy and skill, his expert knowledge to learning what property there is in a given district and how to make a real assessment on it. It is not a matter of a sixty day job or a six months' job. It is an all-around job and is a man-size job, and a man who is not to be bothered nor his time taken about anything else in the world except how to assess property and to find property in order to derive from that property the enormous sum this State must provide in the way of taxation for State and local purposes. Last year one hundred fifty two million dollars were expended in this State to move the wheels of State and local government, but notwithstanding that fact deficits are in every part of the State, usually in very large amounts. Ever since this Convention assembled we have been admonished by delegations, by resolutions and many words of mouth, of the need, of the dire need of additional taxes in order to properly function the State and municipal governments of Illinois.

The City of Chicago alone, by figures presented to this Convention, is fifteen million dollars behind now on its school fund and going behind at a rate, which if continued, it is said will cause the closing of the schools in two or three years from now. The same conditions, maybe not so extreme, exist everywhere. The time is not far distant when three hundred million dollars of taxes must be raised in Illinois for all purposes. For that reason I am very much in favor of the amendment offered by the delegate from Knox (Gale).

Mr. DOVE (Shelby). As we stated yesterday, the committee was not in entire accord with reference to the provisions of section six. They were, I believe unanimously of the opinion that a county assessor should be provided. The amendment leaves the matter of selection or appointment to the legislature, thus making some legislative action necessary before such a county assessor would be provided. In my opinion there is no inconsistency in the duties of county assessor and county treasurer. May I call attention to the fact in Sangamon County, the City of Springfield operates under a special charter, and the county clerk here performs the duties of assessor and assesses all the property here in Springfield. He appeared before the committee with his books and records and his cards and convinced the committee he had the most scientific method of assessing real estate and personal property that has ever been brought to the attention of the committee, and he stated to the committee that the duties of the county clerk and assessor for Springfield in this township were not inconsistent, but could be carried on and handled honestly and efficiently by the same man. For one, I am of the opinion that the duties of the county treasurer and county assessor are not inconsistent.

In my own county, in talking with the county treasurer, a county of between thirty and thirty-five thousand population, he advised me it cost the county between eight and nine thousand dollars each year for the assessment of property, and if those duties were combined in one office and the various township assessors were eliminated it could be done for at least half the expense to the county it now costs to do the same work. So in the interests of efficiency and economy I believe these two offices can be combined, and the

arguments of the gentlemen yesterday and also the delegate from Knox (Gale) with reference to the report made to the legislature under Governor Oglesby in 1885 recommended the abolishment of these township assessors, indicates to me clearly if this matter is left to the legislature no step will ever be taken by the legislature to abolish township assessors and combine all the functions of that office in one man. I therefore indulge in the hope that this amendment will not prevail.

Mr. DUNLAP (Champaign). I think this question is second in importance to the questions of revenue itself and all the amendments there will be made to the revenue law. The administration of our tax assessment is responsible very largely for the failure of the law as it stands today, and the necessity for this Convention is due to the fact it has not been properly administered, in some measure. The law is not so bad if administered right. Here is an opportunity for us to provide means by which property can be assessed and assessed in such a way as to secure uniformity, and that is the one thing that has been sadly lacking. The competition between township assessors to get their township property a little lower than the surrounding townships has been responsible in a large measure for the depreciation in values which has been going on the assessors' book for many years. We will have to provide some efficient means by which property can be uniformly assessed and by which all property shall be assessed and placed upon the tax books, and the remedy we have before us today, the question we have before us is whether we will divorce the office of county assessor from that of county treasurer and collector. The importance of that office is too great to be coupled with the office of county treasurer and collector, and I sincerely hope, if we are really in earnest, of providing some means by which we can benefit the people of the State in securing uniformity of assessment, that we will provide here an assessor, and provide it by leaving to the legislature to either appoint or provide for the appointment or the election of this county official. My only objection is he ought to be appointed, and he ought to be appointed by the Board of Supervisors in different counties, and this man ought to be qualified and his qualifications known to the County Board of Supervisors and he ought to do like they require the county superintendent of highways, he ought to pass an examination so as to show some merit for the place he is seeking.

Those things can be left to the General Assembly, but I would not leave the matter of the appointment or the election or in fact the creation of the office of county assessor to the General Assembly. I went through a little experience in the General Assembly a session or two ago in trying to reduce the number of highway commissioners in townships from three to one, and I want to say to you I never had a bigger fight on my hands in my life in accomplishing that little thing, and when you undertake to do away with all these offices in the General Assembly, you would have the same situation, and I think we should provide for the county office of assessor. I think the gentleman from Schuyler (Jarman) is a little inconsistent in wanting to have a county assessor well qualified for the office, and then make him ineligible for reappointment or reelection. I do not think the two go together; if he is an efficient assessor he becomes more efficient with experience, so I think it ought to be a separate office.

Mr. SCANLAN (LaSalle). As to the amendment of the gentleman from Knox (Gale) this is a double-barrelled amendment. In the first part he separates it from the treasurer, and at the end he provides for an assessor, and I think that amendment should be divided until we determine whether we will have one office or two.

Mr. BAKER (Will). I think it is a very important office, that of county assessor; I think it should not be combined with the office of treasurer. I believe thoroughly in the suggestion made that the two offices are incompatible. I do not think there is any section of the State where the assessor is also collector. In counties not under township organization, as I understand it, the treasurer is the assessor and the sheriff is the collector. In counties under township organization the township assessors are the assessors, but previous to the present law a collector was provided in each town-

ship, and now the treasurer is the county collector. I believe that the work of placing the values of assessing property would not be satisfactorily done by the same officer who collects the taxes. In the county from which I come, the assessor of the one township, the township of Joliet spends his entire time as assessor of that township. The compensation is such as would pay the salary of the county assessor. I believe that the method of selecting the county assessors should be left to the legislature. I question very seriously that he should be elected. The county board at the present time appoints the superintendent of public highways, and as has been suggested by the Senator from Champaign (Dunlap) the operation of that law has worked out very satisfactorily in the counties of the State. I believe we ought to have an independent assessor to be selected in such manner as the legislature might provide.

Mr. TAFF (Fulton). As a member of the committee making this report, I desire to state briefly some of the matters that were taken up by the committee, some of which have been gone over by other members of the committee. Proposals were introduced before that committee for the purposes of creating the office of county assessor. Proposals were also introduced before that committee for the purpose of creating the office of county collector. All of the arguments which have been made this morning against the combination of these offices were made before that committee on behalf of the officers I have named. In other words, the proponents of the proposal who desire county assessors advanced the same argument as has been advanced this morning. The proponents of the proposal who want county collectors separate and distinct, a separate office elected by the county, made the same arguments which have been made this morning on the floor. The committee gave both of these very serious consideration, and after giving it very serious consideration they could see the need of both the county assessor and collector, but they could not see the need, nor did they deem it wise to make a separate office of county assessor and county collector and thereby add in this section two separate offices.

Under the present law, in counties under township organization the county treasurer is the county collector, as has been stated. In counties not under township organization the county treasurer is the assessor. Having in mind the legislature could see no inconsistency between the office of treasurer and collector in the one instance, and between the office of assessor and treasurer in the other instance, your committee came to the conclusion there was no reason why the offices should not be combined, and for that reason the three offices were combined in the majority report. The majority report, as you will notice, does not prohibit either the sheriff or treasurer succeeding himself, and one of the reasons why the majority report permitted the treasurers to succeed themselves was that if the collector was to be made ex-officio treasurer, he should be permitted to succeed himself. Your committee could see no inconsistency in these offices. The office of assessor is the only office which requires judicial or executive ability, you might say. The other offices are purely administrative, and it is only a question of getting sufficient clerical help to carry on the duties of the office. Now, there are other offices in the county just as important as any of the offices which have been mentioned in this section, and I think it would be well if this Convention is going to place in this Constitution every office that is important in the county that they include those offices also, and I speak of the office of supervisor. The supervisors are the only ones in the county who have administrative powers over the entire county, and it would not be inconsistent, if these arguments are good, to place in the Constitution a provision making constitutional the office of supervisor. I do not believe it is wise to leave it with the legislature as to whether or not they shall create the office of assessor, because of the fact that it has been fifty years since the adoption of the Constitution which we now have and the office has not been created, although the necessity for it has been very apparent. It took a number of years in order to abolish township collectors, fifty years, and in my opinion it will take fifty years more to abolish township assessors, and the combination of these offices would not increase the number of offices in the county, but would provide for the

election of an assessor. The committee thought that they should mention the assessor and make the ex-officio treasurer a collector because of the fact in the presentation of the question to the electors of the county the office of assessor would be the one that would appear upon the ballot and call attention of the voters to that fact. For that reason I believe that the amendment offered by my colleague from Knox, (Gale), should not be adopted.

Mr. MACK (Hancock). I believe in the matter of some of these reports, especially take a report like that now before us, a considerable presumption should be drawn by the careful work done by a very good committee. Hence, in this matter, so far as I am personally concerned I expect to try to follow the report of this committee as to this section, at least. I believe, Mr. Chairman, if there is anything in the world that this Convention can do to benefit the people of Illinois it shall be to recognize the principle embodied in this section six. I believe also with regard to this, that we are doing justice to the people, and the thing that will be commending itself to their attention, if we make the assessor an elective office. Of course as the gentleman from Fulton (Taff) has well said, it has taken fifty years to change the process of local assessor in local townships to county assessor elected by the people of the county, and this committee has wisely and well made this provision without waiting for fifty years to elapse, and I desire to say I am in favor first of the election of a county assessor; I am in favor of a county assessor being an assessor for the entire county; I am in favor in the first place of combining these offices because in a large number of counties down State it is a fact and well known, and has commended itself no doubt to this committee, that the county collector and county treasurer occupies a large part of his time in doing very little, but he gets in touch with these matters, he becomes educated along that line, and the provision suggested by the gentleman comes up later by this report, a provision by which he is allowed to succeed himself. I think, Mr. Chairman, it would be a great mistake in the first place to make this office appointive, for I desire to call the attention of this Convention to the fact that the offices in the board of review were made appointive and the men who have been elected in the county for the different county offices have always stood as high or higher than the men appointed by the county judges in the State of Illinois, and the fact this comes from the people is extremely wise and I believe we should stand for the report as made. I am satisfied from what the gentleman from Fulton (Taff) has said, he has given the most careful study to the matter, and, coming from down State to which this applies, acted after a thorough investigation of the whole situation and knew exactly what the committee was doing, hence I desire to put myself on record as standing emphatically for what these gentlemen have done in this section, just as they have done it.

Mr. GALE (Knox). I am impressed with what the delegates who have just spoken have said. I desire to say I provide in this amendment that there shall be a county assessor, but Mr. Chairman, I think the duties of that office are such that they should not be combined with the duties of any other office whatsoever, and particularly not with the duties of treasurer, at least in all the counties of the State. Now, I appreciate the fact there may be counties in this State in which that ought to be done. I have tried to provide in this amendment that the county assessor should be selected as the legislature might direct, which would give them the power to have him elective or appointive and to devolve those duties upon the county treasurer, if that appears to be wise. I object to tying this absolutely up in the Constitution as a constitutional officer who must always be elected, because it seems to me that is so likely to interfere with a proper revenue system for this State. At the same time I see the necessity for making this a constitutional office, as suggested by the argument of the gentleman from Shelby (Dove), to-wit, that for a great number of years the legislature has known the need of county assessors and has never seen fit to establish them. Therefore, let us say in the Constitution that there shall be an assessor and let us constitutionally devolve his duties upon that of any other officer, and let us not so tie it up in the Constitution that he must always be elected. The gentleman from Schuyler (Jarman) said if this was adopted possibly assessors would

be brought in from other counties. The legislature is careful and tender of the rights of the people of the county and of rights in these offices, and they are not going to provide that assessors shall be brought in from the outside unless the revenue situation in this State gets so bad that that needs to be done. I wish to point out if the discrepancies in the different counties continue it may be one of the best things in the world and one of the essential things to get a decent revenue system in the State that assessors be brought in from the outside, and that the man who assesses Knox county shall be a resident of a county at least one hundred fifty miles away from Knox county. That is one of the things I have striven to take care of in this suggested amendment. It seems to me, Mr. Chairman, the objections made here are answered by making the county assessor a constitutional officer, but devolving the method of his selection, either election or appointment upon the legislature, so that they may take care of the conditions which from time to time arise.

Mr. DAVIS (Cook). I move that debate be closed and that we proceed to vote on the pending question.

Mr. SCANLAN (LaSalle). I made a motion to take up this amendment of the delegate from Knox (Gale) by sections.

Mr. DAVIS (Cook). I am perfectly willing that the question be divided. My motion was to close debate.

CHAIRMAN SMITH. The question will be on the motion of Delegate Scanlan to divide the question.

(Motion prevailed.)

CHAIRMAN SMITH. The question now is upon the motion of the delegate from Cook (Davis) that debate be closed.

(Motion prevailed.)

CHAIRMAN SMITH. The question now on the division one of the question to strike out the words "county assessors who shall be ex-officio," and the word "and" in the line following. The sense of it would be to give the delegates a chance to vote on the question as to whether there should or should not be a county assessor.

Mr. GALE (Knox). And also to insert the words after the word "treasurer" "who shall be ex-officio county collector." Otherwise, the section will not read smoothly nor correctly.

Mr. SCANLAN (LaSalle). My purpose was to separate the two questions, to first determine whether the county assessor shall be combined with county treasurer, and then determine the method of selecting the county treasurer.

Mr. DUNLAP (Champaign). There is only one question, to strike out and insert.

CHAIRMAN SMITH. The Chair understands that the words "who shall be ex-officio county collector" were in the amendment. I think the delegates so understand. The point of order was not raised on the division of this question. It is the opinion of the Chair that the logic of the question does not need division and also under our rules it being a motion to insert and strike out, is not divisible, and the Chair will rule that this motion of the delegate from LaSalle (Scanlan) is out of order, if I may do that after it is put. The question is on the adoption of the amendment of the gentleman from Knox (Gale).

(Amendment adopted 55 to 14.)

Mr. TRAUTMANN (St. Clair). I would like to offer an amendment to section six as amended by adding after the figures "1922" "and every four years thereafter," and by adding after the figures "1924" "and every four years thereafter."

(Amendment adopted.)

Mr. JARMAN (Schuyler). I offer the following amendment, by adding to section six the following: "Provided that no person having once been elected to the office of sheriff or treasurer shall be eligible to said office for four years after the expiration of the term for which he shall be elected."

Mr. CRUDEN (Cook). In order that we may have a division on this

question, as well as on all others on this subject, I offer this amendment, amend the amendment by striking out the words "sheriff and."

Mr. GREEN (Champaign). I listened with a great deal of attention to the various forceful arguments that were presented last night against allowing the sheriff and county treasurer to succeed himself in office. I am not yet ready to admit Illinois in its republican form of government is going to confess its impotency to protect itself and substitute for that the general charge of dishonesty or possible dishonesty against any public official. There is no more excuse for refusing to allow a county treasurer to succeed himself than to allow a county collector to succeed himself; and the argument advanced that he might steal public money, that he might be dishonest applies with more force against the county clerk in big counties than against the county assessor in a small county. I undertake to say the county in which I live the county clerk and the circuit clerk handle more money belonging to the public generally than a county treasurer handles in some other counties in the State. It is not fair to say that this amendment was adopted after the Constitution of 1870 had been adopted by the people, because of the fact so many county treasurers were defaulting. I looked into that a little bit since last night, and the primary purpose was the effort on the part of one political party to get county treasurer of another party out of office where they were not able to defeat them, and of course if they could find a defaulting treasurer here and there it was used as an argument why it should be done.

Now, here is the vice of taking this position. This is a little delicate to talk about, but it is the absolute fact and known to every one of us—may be it is not true in every county in this State—but it is financially impossible for a man to make a race for county treasurer holding one term and be independent and have a dime left out of his salary if he obeys the law. Consequently, what happens? Because the legislature has not by some proper legislation entirely protected the public, either by guaranteeing enough salary or by providing audit of the treasurer's books, or by making some provision for the public paying for his bond, the banks of Illinois elect county treasurers, the banks are the county treasurers, and necessarily must be that way. If a man elected county treasurer bought a surety bond it would cost a great deal more than the salary he received, and it becomes necessary therefore for him to make some financial arrangement with a bank in order that he may give proper bond, and since he can only hold office once there is no incentive to efficiency that ought to actuate every other public officer. There is no hope of the expression of the confidence of the people whom he served by being reelected to the office, but he is of necessity simply the trusted agent of financial interests that elect him, and some day in Illinois that very condition which is brought about by the refusal of the people to express their confidence in the custodian of the public funds is going to bring about a condition of scandal that would not exist if it were treated in the same catalogue with other county officers.

Personally I have absolutely no interest in it, I do not know of any sheriff or county treasurer I want to see succeed himself. I think it is time to adopt this amendment. It may not be very popular, but I only wanted to go on record in this Convention as being one that was willing to still express my confidence in the general honesty of public officials, and that if perchance a crooked public official did get away with something because of the impotency or indolence of the legislature or the people themselves in providing proper methods of safeguarding the treasury, that we therefore presumed when we elected him he would be dishonest and prevent him from succeeding himself. The only argument advanced is that he might so confuse his accounts that we could not check him up during his term or at the end of it. It is necessary under the law that they promptly pay over moneys as they receive them, there would be no necessity for auditing. I have noticed that the situation is generally that he holds it for sixty days before he turns it over, which is wrong; he being the agent of the various tax levying bodies that levies the tax, the money should be immediately paid over.

If we set up a system by which we create a financial institution that is of tremendous importance to certain financial interests, and then surround him so that he cannot make any money out of it, then we say we will presume he is encouraged to be false, and in order that he may be checked up and the money finally turned over once in four years will fix it so he cannot succeed himself, but we know at the same time that with the interest on these funds there will be opportunity for him to make money in some other way than that which the law contemplates, it seems to me entirely inconsistent. In other words it does not seem that it gives that expression of confidence in our form of government that we ought to have. Now, if a county treasurer serves four years he ought to be able to serve the people with greater economy in the next four years than in the first, but when the suggestion is made that we will eliminate the treasurer and fix it so that he cannot succeed himself and fix it so the sheriff can, we give evidence to the very thing that lies behind, the political interests in the subject matter; it ought not to be there. When you get down to the last analysis, it cannot mean anything else, and I for one just felt, wholly independent of any interest in any treasurer or sheriff, that we ought to be consistent, and that we ought to be willing to express that confidence in the integrity of the men the people elect, that we are willing to trust them if the people see fit to reelect them, that they shall not be branded by the Constitution as ineligible because we have created a situation that invites dishonesty, and I can see no reason for putting the county treasurer in one class and the collector in another. It may be difficult to check up, but if it is, it is our fault in that our legislation is not adequate and sufficient.

Mr. MAYER (Cook). Let me in a very brief and short resume call the attention of the Chairman and the members of this committee to the situation, as I understand it. The argument that has just been advanced is that the people show a lack of confidence in the treasurer by making him ineligible for immediate reelection. That same argument would destroy the taking of surety bonds from the treasurer. The learned member of this committee might just as well have contended that the Constitution should provide that no surety bond shall be exacted of the custodian of public funds.

The argument destroys itself, and when we are told that a county treasurer should be permitted to be elected so he might make some money out of his office, because during the first term he will have used all his income to meet his election expenses, my answer is that is a double demonstration why he should not be reelected. The public confidence that is shown in a county treasurer is the reward for an efficient discharge of his duties; and then we are told by the same learned gentleman that you do not offer any *ambitious invitation* to the county treasurer to be efficient if you do not give him a reelection. That is an argument that is as surprising as it is futile. If the only attraction to a public officer to efficiently discharge his duty is to say we will reelect you, that public officer ought not to hold his first term.

The proposition is plainly this: Is the State of Illinois and its municipal subdivisions entitled to the best security for the protection of its funds that is possible for the Constitution and the legislature to provide? Up until now, human agency provides the only surety, and a denial of the right of reelection, and while with those precautions the people are impotent to always protect and secure themselves, as is demonstrated by the frequent suits that are begun against treasurers and sureties. No, Mr. Chairman, I am afraid that the political argument is the boot on the other leg, and that the men who are once in office want to hold on to that office and use the income which more properly should be applied to their own wage and salary, for the purpose of creating a machinery for reelection.

The only safe provision, and it is a provision that is contained in nine out of ten Constitutions in this country is to say that the holder of public funds when his term of office expires must have an accounting by an independent source. What accounting can there be other than the successor counting the money and the securities and giving a receipt to the predecessor? The suggestion that the bankers constitute the county treasurer also is an inefficient answer to the proposition, because if the bankers constitute

the county treasurer they would just as well constitute the first county treasurer, and the second county treasurer. Otherwise, why not make the county treasurer once in office, always in office? Another suggestion: If a county treasurer is absolutely true to himself, he can get the protection only by going out of office, because county treasurers in probably most of the counties of this State, if not in all, have more or less subordinates and employees. It does not at all indicate lack of confidence in the county treasurer to say that he shall not be eligible for reelection. It helps the county treasurer to see whether any of his subordinates have been defaulters. A man who wants the county treasurership, and is unwilling to hold it for one term unless he can make money enough during the next term to compensate him for his term, in my judgment is an inefficient and undesirable candidate for the office. (Applause.)

Mr. BRENHOLT (Madison). Just one word on this subject. There have been some remarks made against citing some concrete example of a condition that exists within your own county, but I want to cite our county as an example. The county treasurer of Madison county is required to give bond of one million five hundred thousand dollars. I had the question up when I was on the board with the idea that we would do away with the loaning of money in that manner to the banks, with the bankers in the county who go upon that bond, and I am informed by a former treasurer of our county that the banks realize six thousand dollars a year on the amount of money in their hands, and I had an idea that I would insist by a resolution through the county board that a surety bond should be given. On investigation we found it would cost us four thousand dollars to furnish that bond. The county treasurer under the present plan of giving a personal bond is checked up by the bankers weekly, almost daily, so there is a complete check on his office and the people feel no anxiety about where their money is, whatever.

Mr. MACK (Hancock). I realize the force and ability of both gentlemen who have spoken. I simply want to put myself on record on this question. I know nothing of the condition of affairs in Cook county, but I do know that down State, that our county treasurers and sheriffs have come and gone and there has been very little scandal connected with those offices. I want to say to the gentleman from Cook county, for whose ability I have great respect, and who has ably presented his belief on this matter, that I cannot believe, even after what he has said, that this committee ought to say that the great people of the State of Illinois, a republican form of government, is unable to handle its business and affairs upon the same basis as ordinary business is handled. I want to insist, and to me it seems self-evident, that if a great business can carry on its affairs from year to year amounting to millions of dollars without removing an official, and if it is not necessary in railroad, banking and business circles that a man be changed every four years in order to check up his accounts so he will not rob his employers, I cannot see why the people of the great State of Illinois in their majesty, represented by a body such as we have here, may not be able to frame something that will be ample protection to the public and officials alike.

Under the present system the county treasurer is the collector of taxes all over the county; it takes experience and ability to do that, and the time he has been employed in the four years is paid for by the people, and I think the people should use it. As to both the sheriff and the treasurer, I want to say I have not heard a single reason urged why a man cannot honestly and fairly hold those offices, and I believe those offices are filled fairly and honestly. The people of the State of Illinois are getting accustomed to the doctrine that a man should be recognized again. I will ask the gentleman from Cook if there is any reason why there should be a distinction between a man who handles millions and millions of dollars for a private corporation, and a representative of the people who handles a much smaller sum. No reason has been suggested, so far as I have been able to learn, and no reason exists, and I believe the people are thoroughly and absolutely capable of handling an office such as this and checking up a man when he is done, and if he con-

tinued four years more the legislature of the great State of Illinois might preserve such a method.

Mr. JOHNSON (Bureau). I purpose not to take much of your time in the discussion of the question now before us. However, I do wish to go into the record as favoring the constitutional provisions we now have it in Illinois with reference to this subject matter. It has been said that there is no reason offered upon this floor why that provision in the old Constitution should stand longer. It occurs to me it is a sufficient reason to keep in mind that ten years after the Constitution of 1870 was adopted the people of the State of Illinois became so exercised over the question of defalcations on the part of treasurers in this State, and for other reasons that they brought about the amendment of the Constitution which became operative in 1880, thus making it ineligible for a treasurer and a sheriff to succeed themselves. I ask the gentlemen upon this floor, who say there is no reason for the continuation of that provision in the Constitution, to answer this question, who in Illinois is now asking that that constitutional provision shall be wiped out? That question was put to the honorable gentleman, the chairman of this committee, and as I understood it his answer was, that the only demand coming from the people of Illinois came from the mouths of one hundred and two sheriffs and one hundred two treasurers, as they were represented before that committee. Men who are holding those honored positions today are the only ones who are insisting that that constitutional inhibition shall be removed. I want to call your attention to the fact that that makes two hundred four men in Illinois who would like to hold their jobs another term. It is true there are perhaps six candidates for each office in every county whose eyes are now fixed upon those offices when there is a vacancy. Six candidates to each would make six hundred twenty-four or twelve hundred forty-eight candidates at least who are now saying to the delegates of this Convention to let that Constitution stand as the people made it in 1880. (Applause). Let us give heed to the twelve hundred hungry men who want the jobs and say to the two hundred eight men who are already feasting in the offices, let us say to them, as the people said in 1880, "you step down and out and make an accounting to the people." There is no demand for a change yet, gentlemen. Why should we linger here longer upon this question, since there is no demand coming from the people of Illinois to make this change. Let us not do it. Let us vote upon this question now. (Applause.)

Mr. LINDLY (Bond). I cannot understand the necessity of applying this to all the sheriffs in the State. There are only thirteen sheriffs in the State who collect money, and that leaves some eighty-five who handle no more money than the county clerk or circuit clerk, or any other office in the State, and I think the proper thing to do would be to make this apply to sheriffs who are ex-officio collectors and permit the other eighty-six or eighty-seven sheriffs in the State to be reelected just the same as other county officers who are not treasurers. I believe it will be right, and I suggest to the gentleman that such an amendment ought to be put in to make it apply to those sheriffs who are ex-officio treasurers.

Mr. DUNLAP (Champaign). I might say to the gentleman from Bond (Lindly) if this present Constitution is adopted it will provide that the sheriffs will not be collectors of taxes.

Mr. GORMAN (Cook). I do not desire to undertake to tell the delegates down State how they should dispose of these questions, but I would like to answer a question propounded by the delegate to my left, (Mack) when he asked why there should be a different standard for the elective officials who handle funds and those representatives of private business. There should be a different standard because an elective official is one who is chosen because of his ingratiating, contagious political parts, while the other, who represents private business, is chosen because of his training, his experience and his well established honesty and industry.

Mr. CARLSTROM (Mercer). I am going to take but a few moments of the Convention's time, but I do want to record my position on this matter. I believe we have lost sight of the historic reason for this provision being

adopted in 1880. I happened to come in contact with a man—I was his law partner in 1903—who is still alive, ninety-six years old and blind, who was treasurer of my county in 1872, about the time that this disturbance arose which created the necessity or the demand for the amendment of the Constitution, and the trouble with the situation at that time, gentlemen, was this: We had no banking facilities as we have today; men did not know what a surety company was and the instability of the financial situation and the circumstances of the times made a personal bond a thing of practically no guarantee. The merchants were doing the banking business and handing out scrip, and when the great trouble of 1873 came on, they went down with a crash, and they carried with them the funds of the various municipalities and of the State of Illinois and left treasurers galore apparently defaulters when they were not. I think I can say this without any injustice to the gentleman to whom I have referred, who is Isaac M. Bassett, one of the oldest and most respected members of the bar in Illinois. In 1903, as his law partner, I saw a receipt come to his office from the auditor of the State of Illinois for one thousand dollars, the last money that the State or county had lost by reason of the financial situation in 1873, old man Bassett had earned and repaid. That was the reason, gentlemen, I think not the fault of the honesty of public officials, but the financial and commercial situation that prevailed in 1873 that caused such a disturbance in the financial affairs of the State as to create a sentiment for the amendment to the Constitution.

I appreciate fully that apparently it is the sense of the Convention, from the expressions that I have heard that this provision should be retained, but I want to go on record in this regard, believing as I do, that the gentleman from Champaign has correctly stated the situation. I do not want to be one of a body to present an indictment, and who says without listening to the defense, such evidence as they may choose to give, and then constitute itself the executioner of the character of every man who may aspire in years to come to the office of sheriff and treasurer in any county in Illinois. I believe, gentlemen, that the future of this State and of this Nation rests and rests alone upon the integrity and honor of its citizenry, and if we have no faith in that, we thereby, in holding that position and attitude, confess the failure of government by the people.

Personally, I want to go on record in this Convention as being willing to assume that a man in Cook county, or any other county in Illinois who presents himself to the people of his county and asks their support to be honored and trusted with the public funds is a man of such stripe and character if he gets that position that I am willing to accept his integrity as being worthy of imposing in him the continued confidence of repeating his term of office, and I think the gentleman from Hancock (Mack) has challenged our attention with something that is worth while, and something that should be considered here, that a man goes into the office of county treasurer and is ex-officio collector of taxes and builds up an efficient method of discharging the duties of that office, that he cannot do it at once, but the first two or three years of his service will be spent in trying to acquire a method of efficiency that will serve well the people who elected him, and should we say after he has had three or four years time at the public expense to qualify himself and make himself efficient that we should forbid him the right to use that valuable service again after they have paid for its building. I think that is worthy of consideration.

A man qualifies himself during his first term to be an efficient official and yet we say, notwithstanding that, because we fear the basic integrity of our citizenry, that we will deny ourselves the use for another four or eight years of the high measure of efficiency which this man has administered in office because we fear, lurking in his soul there is the desire to take from the people the funds which they have trusted to his care. I believe the historic reason for that, men, was the situation in the panic of 1873, and I said what I did and mentioned the man's name because I wanted to convey the impression that I hold, that it was not so much a matter of dishonesty of officials, as it was they were the unfortunate victims of a financial situation that they were not responsible for and could not avoid. That is what happened

in 1873, and the treasurers in Illinois lost their funds. This man gave his personal private library to the State and then spent thirty years of his life in earning money to reimburse the State for what it lost. I believe that is the reason for the amendment we have, and I believe, too, that today with modern surety companies, which have been known only in recent years, there will be no occasion for this thing, and we are simply stultifying ourselves by challenging the character of the future holders of these positions. I see no reason why they should not succeed themselves, and I want to so record myself.

Mr. ELTING (McDonough). I wish to say, Mr. Chairman, that I am not in favor of these officers succeeding themselves. I don't mean they are dishonest, but I am not in favor of that on the principle of supporting our republican form of government. First, we fix the term of office at four years, and after a man has filled that office for four years, that fact does not give him any inherent right to another term. He gets his warrant for the next term of office from the electors, so the fact that a man who has one term of office, does not give him any inalienable right to succeed himself, because the term of office is fixed. My second objection to the sheriff and the treasurer succeeding themselves, especially the treasurer, is, that they are, as a rule, as it has been said in this Convention, generally candidates of the large banks of the county and to a large extent are controlled by those banks. That was the reason, Mr. Chairman, that I was not in favor of uniting the office of assessor with that of treasurer and ex-officio collector, because the assessor's duties are different from those of the treasurer. Without dwelling on that subject, the office of the assessor is a quasi-judicial office. I think these officers should not succeed themselves because of the temptations that are thrown around the men. If there is not enough salary there to induce a man to accept that office, no one compels him to be a candidate for that office; he is a free man, and if you want to perpetuate men in offices of this kind, then you begin to destroy the structure of our republican form of government. I am not in favor of too much centralization. I am not in favor of taking offices away from the people, as a rule, but the facts upon which this Constitution was changed—human nature is just the same today as it was forty or fifty years ago, and the people of our State said by their voice in that matter, not because they said the sheriffs and the county treasurers were dishonest, but because they said the office was for a certain term of years, and we want you to close your books at the end of that term, and that is the reason why they had to do it. It is not because county treasurers are dishonest, but that the practice made them dishonest in some cases. I am in favor of the amendment that does not allow these officers to succeed themselves.

Mr. WOODWARD (Cook). I did not expect to inject myself into this controversy, but it occurs to me, after listening to the various discussions, that there is a word that might be said that might give a new thought. All the discussion to the present time has been directed to the individual occupying that office. Something has been said with reference to removing from office or discontinuing the officer at the end of the four year period in order that a proper accounting might be had of his affairs. That does not seem to appeal to me very strongly, because I believe that ways and means can be devised that will afford all the protection necessary to the public from officers who hold that office, or any other office. I am wondering whether or not we have considered it from the standpoint of the people of the particular counties that may be interested. I wonder if we one hundred men sitting in this Convention want to say to the people throughout the counties of Illinois that we have the brains to determine for you what you will do in the future as a county unit with reference to the selection or election of certain public officers who represent you. I wonder if we are not in a sense, if we adopt this amendment, disfranchising people of the respective counties to the extent of making it impossible for them to elect to office any official who has throughout his term of office shown himself to be worthy in every respect. I contend, Mr. Chairman and gentlemen, that some ways and means can be devised which will afford all the protection that the public needs from either

sheriff or county treasurer, or any other officer, and if that be so, it is my view that the people in any particular county are apt to be deprived by the one hundred delegates in this Convention of the right to reelect to office any public official that they desire, and if the people of the county want to assume that responsibility one hundred of us in this Convention have no right to seek to deprive them of that privilege. (Applause.)

Mr. GRAY (Adams). It has been said on the floor of this Convention that possibly there was nobody interested in the reelection of treasurers and sheriffs but the treasurers and sheriffs themselves. I wish to say that shortly after the convening of this Convention a number of supervisors of Adams county, the city council of the City of Quincy, who are representative of the entire county, met in association or convention, and adopted resolutions which they forwarded to me to be adopted by this Convention, or at least that I should support them; coming from the board of supervisors and the city council, I feel it my duty to obey their wishes. Among their resolutions was one that treasurers and sheriffs should be elected to succeed themselves. I want to go on record as being in favor of that proposition.

Mr. JACK (Jasper). I want to discuss this question from an angle there has been little discussion upon. I think that the office of county treasurer and collector of taxes is one involving probably to a larger extent than any other office in the county the question of efficiency. I talked last week to the county treasurer of my own county, and he had this to say: He was in favor of eliminating this provision from the Constitution; now, he says, "I am not in favor of eliminating that because I want to succeed myself, because I don't, I don't want the office again, but it has taken me now two years in order to understand and administer the affairs of this office efficiently."

Now, I am going to speak from personal experience. In my early day I was deputy county treasurer for four years. I was not only deputy county treasurer but I had entire charge of the office, the management of the finances of the office, and I want to say to you that it is a matter of interest to the tax payers of every county that they have a man in that office who understands the business; one that gets acquainted with the description of land; one that knows the description of land; because in my experience in the office in four years, in fact I had five years experience I served under the successor during the tax paying season, that a great majority of the people who come in to pay their taxes, or at least a great number of them, are entirely unfamiliar with the property, real estate, on which they want to pay taxes; but few of them ever bring their former tax receipts along; but few of them know the description of land. In the State of Illinois you pay taxes on description, and no man can acquire that efficiency that he can readily locate a person's property without experience. The last year I served in that office I could wait upon a tax payer in half the time and be more thoroughly satisfied I was correct than I could the first year I served there. We talk about efficiency. It takes practice to be efficient in the county treasurer's office. I do not think it is the fault of men being dishonest that we have defalcations. I think you can correct that evil by providing a proper system of State auditing of accounts of county officers. In my judgment the present method of auditing the accounts of the county officers throughout the State is inefficient, because in a great majority of cases the auditing of those accounts, at least in my county, is done by a committee of supervisors, men who have no experience, men who scarcely know an account when they see it.

If the State of Illinois would provide, the legislature of the State of Illinois would provide and make it the duty of the auditor of public accounts to send out efficient officers and audit those accounts, we would have no defalcations. Not only should they examine the accounts, but when they dive down, just as an inspector of post offices does now, he not only checks your account but he goes into your cash drawer, into your bank and he sees whether you have money on hand to correspond with that. Just as the present inspection of building and loan associations over the State, where the inspector is a man who understands those accounts, and understands the

system of bookkeeping, and he not only sees you have securities, but he goes down into your cash drawer, into your bank account to see if you have the actual cash. I think that inefficiency in auditing is responsible in some measure for the defalcations of county treasurers and other officers. I speak from experience because I have filled positions in all. I know what a postoffice inspector does when he comes to my office, because I served for ten years as postmaster. He is not satisfied with the balancing of accounts. He counts my cash. I served as secretary of a building and loan association, and it was done in that way, and I say the auditing as it is done under the present system of county officers does not carry much weight with me, simply because those who audit are not men who are competent to audit. I believe the evil would be corrected by the legislature of the State of Illinois by providing a competent and efficient system of auditing accounts of the various county officers throughout the State of Illinois, and it will never be done in any other way, whether the officer is allowed to succeed himself or whether he is not allowed to succeed himself. Therefore, I am in favor and shall vote for the majority report of the committee.

Mr. DEYOUNG (Cook). I did not care to get into this discussion, but the zeal as well as the ability and energy of the gentleman from Champaign, (Green), seems to me to have put this matter in a light which calls for further attention. His argument is that the prohibition against the election or ineligibility to reelection of county or State treasurer is a reflection upon the incumbent of that office, and necessarily upon any one who aspires to occupy such place. I fail to see the force of that argument, for if a limitation, of whatever character it may be, upon the incumbents of a public office is a reflection, then necessarily very much of what is contained in the present Constitution or either of its predecessors, or in the body of the statutory law in the State, ought to be repealed. Turn, for instance, to article four of the present Constitution, beginning with the oath of office of a member of the General Assembly. Does it not in terms, if the argument is sound, impose a reflection upon every man who presumes to take part in the law making of this State, and yet no one would think for a single moment of parting with jot or tittle of what the fathers found necessary to prescribe in the way of oath of office of a member of the General Assembly.

The same article has many provisions in it which are limitations upon the legislative power. The prohibition against incorporating more than a single subject in an act, which must be expressed in the title, the requirement of reading of an act on three different days in each house, are requirements, which, if the public officers may be vested with complete confidence, is quite unnecessary. I now turn to other prohibitions in the article on the legislative branch. Even the Governor himself, vested with the chief executive power of the great State, a State greater than twelve sovereign nations of Europe, even the great executive of this State is subject, if that argument is sound, to a reflection, because the legislative branch of Illinois may impeach the chief executive of Illinois. Yes, even the judicial department, which is recognized as the bulwark and protection of the interests of the plain man, of the whole people of the State; even there we find the requirements that all judges of courts of record shall report to the legislature—what—the number of days they have actually worked during the preceding two years. There is a reflection in that, if we cannot have confidence in our judicial officers. You may turn to every branch of the civil government; we require of all officers, constitutional and statutory alike, practically all, an oath of office. In municipal government we require itemization to the utmost detail in the matter of appropriation. Why? In order that some protection be put about the expenditure of public moneys. Whether it be in school administration, or municipal administration, in township or county government, every department of government, you find the same limitations which may be held to be reflections, if that argument is sound, upon the incumbents of public office.

Oh, yes, we ought not to prohibit the reelection of these men because they have put in a great deal of energy and expended some money to be elected to office. Now, I have very little patience with an argument of that

kind. I do not think the government exists in order to give to certain men public places, nor do I believe a public office should be a sinecure. We have no dearth of men, even under the present scheme, in the way of candidates for public offices and especially the office of county assessor, if you will. In my own county one of the fiercest fights rages for the incumbency of that office, even though the legislature has now provided that all returns must go to the public. We have a great many figures on the expense of a campaign among three millions of people, and still we have no lack of candidates for the office of county treasurer in the County of Cook, and I dare say the same thing is true in a large measure in the other counties of Illinois. If this is a reflection in prohibiting county treasurers from reelection, making them ineligible to succeed themselves, why then these other safeguards? The same gentleman states that auditing might suffice. In the manner of speaking, that is a reflection. If we must have this unlimited confidence, why have an audit, why should we require a surety or any other bond? But the history of the custody of public funds not only here but before our time, has demonstrated everywhere it affords opportunity, even with men who are otherwise honest, to deal with public funds in a manner which is not permitted.

It is the old story. I need not repeat some of the instances in the history of Illinois prior to the present Constitution, and even since. We all know in practical administration the requiring not only an accounting but turning over to a successor is quite another thing from an audit occasionally, even if it be each year. I have an instance not far from where I live, the case of a supervisor who had held the office for a number of years, and his accounts were audited each year and the audit proved that his accounts were correct. He was elected and reelected. Finally, the turn of fortune put somebody else in office. Notwithstanding the audit, what was found? That for a period of six years at least he had dealt with the public funds in a manner which the auditors had not discovered. The highest priced firms had made the audit. He had been appropriating these public funds, and when his successor was elected he fled from these parts and has not been found up to this time. This occurred a dozen years ago. That small township suffered a severe loss. I cite that as an instance where auditing does not fill the bill, but many other things are quite necessary.

We are told we must avail ourselves of the experience and the efficiency which a treasurer must gain in the short tenure of a four year term. It is in a large measure a ministerial office, at least in a county of any size at all; there are many men in the office before that treasurer came and who I take it will continue after he departs, so that the matter of efficiency is not at all so important as perhaps the emphasis laid upon it may indicate. I have found no great demand except from office holders for this change. I dare say that all of us have heard the voice again and again of the interested office holder. You know he is a persistent individual, just as Thomas Jefferson, whom I am not wont to quote very often, said more than one hundred years ago, "of those who hold office few die and none resign." I can well understand the feeling on the part of men who hold the office of treasurer as well as other offices who may want to continue to serve in that capacity, but we have found altogether too much in the presentation of matters before committees by public office holders where the selfish interests dominate, and I am not at all convinced that the great people of Illinois, those whom we really serve and who are not always heard in legislative halls, nor in this Convention, I have not heard a cry or insistent demand from that great body that we should eliminate this prohibition which has been in the present Constitution for so many years, and I can see no possibility of wrong, none of disaster, and no lack of confidence by the retention of this in the State Constitution.

Let us pay some attention, as we have, not alone to the men who are making the demand so their tenure of office may be continued, for the custody of money offers opportunities far above that of other offices where the custody of money is not permitted, for abuses. The fathers well seeing this danger put this into the Constitution, and I should be very reluctant indeed to see any part abrogated or the avenue opened up. I do not believe there is any-

thing in the argument at all that we wrong the people of Illinois by prohibiting a treasurer to succeed himself. Why, a Constitution must necessarily be a limitation upon one activity or another. That is exactly what the people have put us here for. Let us understand, and let us continue to understand, gentlemen, these limitations, many of them are absolutely necessary in order that the institutions we have may be preserved and the offices efficiently operated. I therefore oppose any elimination of the prohibition against a treasurer succeeding himself. (Applause).

Mr. DAVIS (Cook). I move at this time that debate be closed and we proceed to a vote on the pending motion.

Mr. GREEN (Champaign). The very distinguished delegate from Cook who made the argument last night, has spoken twice, and I pray your indulgence for just a moment for a few additional remarks. It seems to me that this explanation is in order. Haven't we forgotten all about how these treasurers and sheriffs are chosen? With the highest respect for the great legal ability of the gentleman who has just spoken, how can there be any analogy between the universal desire of honest men to be audited and checked in order that their accounts may be closed, and the American rights of the people to choose, if they see fit, a reelection of a trusted public official? This matter is not a question of the interests of the sheriffs, but with me it is a matter of principle. Why should people be denied the right to reelect an official that they may universally feel ought to be reelected because he has proved efficient and trustworthy? Now, that is the whole question, and here is a reason why this prohibition is dangerous. You force a condition upon these public officers that has been manifested by the open accusation that they are probably dishonest. It must be admitted that they cannot pay for the bond out of their salary if they are independent of some other interest. That cannot be questioned. They cannot rely upon their ability to prove to the people that they are worthy of their confidence by four years of fidelity to their trust, so they can say, I need not defray the expense of another campaign. I can now be in that position that with the financial friend that I have made I can be able to pay the county all the interest on its public funds without having to divide with any bank that furnished my bond, because I have proved by trial that I am honest, that I am trustworthy. You say, well, didn't the people believe that when they elected him? But he was elected by force of necessity, from the fact he knew it was for but one term and had never had any experience in the office before, because some organization of interest knew that he never could succeed himself and that in four years he himself would hardly learn how to discharge the duties of that office. Aren't there a thousand more arguments why a postmaster should not be reappointed? I have always believed a treasurer should be an appointive officer; that the county board should be a judge of his qualifications, but I am not advocating that. If the county board appointed him, setting up all the machinery to check him to prove his efficiency and his fidelity, would anybody argue that the county board should not be allowed to reappoint him, and the argument advanced by the gentleman from Hancock, that great corporations and great business interests all over this country, who select their treasurers through the board of directors and who from year to year reappoint the same man, when that man has the custody of money that belongs to widows and orphans all over the land, I would not think of invoking the rule that we, sitting in this Convention want to invoke, that it is dangerous to the security of these funds to allow this board of directors, if you please, or in this case the people themselves, to choose the same man to fill an office who had proved his efficiency and his fidelity.

Now, the argument that it is the same kind of accusation against the man when you require him to take the oath of office, when you require him to be checked, seems to me almost absurd, coming as it does from the distinguished lawyer who makes it. Why, an honest man wants to be checked, but he does not want to be denied the opportunity to go to those who chose him in the first place and ask for an expression of their confidence in his integrity by giving him the opportunity to fill this office again under the same checks and the same invitation to determine that he was honest.

Mr. TRAEGER (Cook). I have listened with interest to the discussion that has been had for the last two days and the assumption that every man who served in the capacity of sheriff and treasurer was naturally dishonest. I believe we discriminate against those officers when we assume such an idea or stand. The argument was put up here yesterday that thirteen states of the Union had the same clause in the Constitution, that the sheriff could not succeed himself or the treasurer. What about the rest of the Union that have not that clause in their Constitution? Do you hear of any burglary or any robbery any more in those States than those that have that clause? The proposition is simply this: we read this morning in one of the papers that the committee yesterday reported that the treasurer was making a final statement every sixty days of the funds so collected by him. I want to say to you as one who has been treasurer of the City of Chicago, never of the County of Cook, that that should not be sixty days, but twice in thirty days, that returns should be made to the respective bodies that that fund belongs to. (Applause.)

We invite dishonesty by placing in this Constitution a proposition of that kind. As collector of the Town of Lake, I had three terms of experience. The law there says, that on the tenth of March, you shall close your books and be given ten days to make up your delinquent and final returns. I want to say that a good many of the towns could not make their returns in that time. I found no difficulty in making my returns in five to six days, as the records of Cook county will show today. I believed it was my duty. Then another thing, why do we not provide by Constitution an audit of all public officials, I care not who they may be, just as they audit our banks? They charge that some men become dishonest. I want to cite to you, gentlemen, that some bankers have become dishonest, the officials of banks who are audited. We can only use the best precaution against men who are dishonest and I want to say to you that if my tendency is to be dishonest, you have but to give me four years and I will do my best to get mine in that length of time. I believe that the majority of people are honest. I believe we should go ahead in this Constitutional Convention and provide a safeguard for the public in every public official, I care not whether it is State, county or municipal, because that safeguard is like the old medicine, if it is not needed it can not do any harm, and with a proper audit in those offices there can be nothing wrong come of it, and as I said before, but thirteen states have this in their Constitution; what do the other states do? Do you hear anything especially of those men in those offices doing anything wrong than in the thirteen states that have that clause in their Constitution? We talk about the sheriff, if he should succeed himself, that he would build up a wonderful machine to go before the public with which to reelect him. I held the office of sheriff, and I want to say to you in the open that I would not give you sixteen cents for all the political employees from a political standpoint, because I have always found that when I aspire for public office I must appeal to the mass of the people in the territory I hope to serve, and if my past record has been such I can justly appeal to them I have not found much trouble, but they would respond to my call. If you are going to abolish these successions in these offices, why not abolish the successions of the county clerk and the various clerks who have the identical opportunity to build up this political machine, and that handle a great deal more money than the sheriff possibly of the county?

There is absolutely no sound argument upon any of those questions, in my opinion. We want to do our duty and provide for the proper care and protection of the public and penalize men in public office who do not carry out the statutes of your State, but if you will properly attend to that, you will find out that you will have no more trouble with the sheriff and treasurer succeeding themselves than you will have with the county clerk or clerks of other courts, or any other position. There is no reason we should go along in a rut and not turn over the money belonging to the various taxing bodies for sixty long days after it is collected. That can be easily distributed twice a month, and in that way keep a better check on conditions in your respective counties. (Applause.)

Mr. DAVIS (Cook). I renew my motion to close debate.

Mr. JOHNSON (Henry). I am willing that the motion to limit debate prevail. I arise for a question of information. Does the amendment of the delegate from Schuyler (Jarman) provide that neither sheriffs nor treasurers can succeed themselves?

CHAIRMAN SMITH. The Chair so understands it. The amendment of the delegate from Schuyler provides that neither sheriffs nor treasurers can succeed themselves. There is an amendment of the delegate from Cook which eliminates the sheriff from that amendment.

Mr. JOHNSON (Henry). Will that amendment be passed on first?

CHAIRMAN SMITH. Yes.

Mr. JOHNSON (Henry). If not, I wanted to especially ask for a division, and in a short explanation of that I want to say that I came down here with the purpose and intention of voting that treasurers and sheriffs might succeed themselves. I do not see any reason why they should not, and I will confess so far as treasurers are concerned, I think there is a great principle involved, and I am now firmly of the opinion that treasurers should not succeed themselves, and I think the arguments this morning have been addressed particularly to treasurers, but with sheriffs I cannot see that reason, and if we have a chance to vote later, I will not ask for a division.

CHAIRMAN SMITH. As a member of this Committee on County and Township Government, I would like to be heard on behalf of that committee, and also as a delegate to this Convention. Notwithstanding the very able presentation of the distinguished gentleman who seeks to sustain this amendment, I can see no valid reason why we should not permit both of these officers to succeed themselves, and I would that I had the talent of these gentlemen that I have just referred to so that I could explain what is in my mind on this subject, because I believe then that thus fortified, and with truth and justice on my side, I could convince every delegate in this room. (Laughter). The arguments against treasurers succeeding themselves resolve themselves to merely two or three, the principal one being with reference to the treasurer on defalcation. It seems to me the government of the State of Illinois, if it admits that it cannot pass laws and so regulate its government and its business that it cannot forestall these defalcations, with the present day methods and improvements in accounting we have, it is a confession on its part of deplorable deficiency in government. One of the delegates has brought up the historical fact that the Constitution was amended in 1880. I think this, with reference to sheriffs, I do not notice that any delegate brought out that fact, that in counties not under township organization the sheriff collects the taxes, and there seemed to be an opinion for that reason they might defalcate, and should not succeed themselves. It seems to me that the objections that have been raised have by virtue of a change in the times become obsolete, and with our present day method, notwithstanding we have the same human nature, as one delegate said, yet we have different methods of accounting and procedure in our government, and I consider that a sufficient reason for making certain changes in these offices.

The argument has been raised by one delegate that so many other Constitutions have this provision, and the word experience was used in that description. I do not regard that it is experience, it is the notions that those Constitution makers had at the time they were made, just as the notions of the Illinois Constitution makers were at the time it was made. I think that the experience, if it were applied, might change not only the various Constitutions of the various states, who have this provision included, but I think the same experience is a demand on the delegates today that they release this prohibitory clause. It seems to me that the argument that there is no demand for this prohibition being excluded is not well grounded. As chairman of this committee I have given this subject a great deal of attention, and I have listened to the demands of not only the association of sheriffs and treasurers and other county officers, and resolutions of boards of supervisors, and in consulting my constituents and constituents of the other delegates to some extent, and making it a special effort to give attention to this matter in my various discussion, the constituents so far as I have come in

contact with them in the State of Illinois, I believe I can conscientiously say from my viewpoint there is a demand to lift this prohibitory clause, and I believe—I may not be right technically, but my position is this, that if we lift this prohibitory clause from the Constitution that there will not be any reason why in the future, if the legislature so sees fit, they can pass prohibitory statutes which will have the same effect. I have talked with expert lawyers on that topic, and I find they differ, but my belief is we are not providing in this Constitution that they cannot succeed themselves, but we are simply leaving the prohibitory clause, leaving the matter to the legislature in the future to provide that they cannot succeed themselves if they see fit.

I desire to call the attention of the delegates to section eight in our article which I hope will be adopted, and which, from the sentiments expressed by one of the delegates, is one of the biggest things in this article. If this is adopted, I am certain the legislature can then provide these officers or such other officers as they might designate, to take their places, could not succeed themselves, if in the experience of years to come, they should deem it necessary. I hope from the standpoint of a delegate, not speaking as chairman of the Committee of the Whole, that this amendment will not carry. The question is on the motion of the delegate from Cook that the debate be closed.

(Motion prevailed.)

Mr. JARMAN (Schuyler). I believe as mover of this amendment, I have the right to close this debate.

Mr. DAVIS (Cook). Just so we understand each other. The motion which is now pending is the motion of the delegate from Cook to strike out the words "sheriffs and." That is the question pending before the house.

CHAIRMAN SMITH. Yes.

Mr. DAVIS (Cook). I think that your cause will not suffer any if we take a vote on the matter now. We have discussed the matter pro and con and I think it is pretty generally understood. The point of order is we now proceed to vote on the pending motion of the gentleman from Cook.

Mr. JARMAN (Schuyler). The motion was to close debate. I have the right to close the debate.

Mr. GREEN (Champaign). I think Mr. Jarman should have the right to close it.

CHAIRMAN SMITH. When the question recurred to the adoption of the amendment of the delegate from Schuyler, he would then have a right to speak. However, the Chair will rule that the delegate from Schuyler may close debate.

Mr. JARMAN (Schuyler). I shall not repeat what I said yesterday with reference to this question. I have no individual interest in this matter whatever, but every reason to be for the proposition of eliminating this from the present Constitution, because I have several friends who are sheriffs and treasurers and who have been soliciting me to vote this limitation out of the Constitution, but I have frankly told them I could not secure my honest judgment in doing this. I believe this is for the best interests of the people, and the question arises at once, can any harm come to the people of this State by retaining this present limitation? Nobody will say yes. Can any harm come by eliminating this limitation? The experience of this State and the experience of other states is to the effect that harm would come, and that experience is worth something. They say conditions are different. Conditions are the same in reference to those two offices, and the scandals that would occur if this limitation is taken away. They say this was done forty years ago. My attention last night was called to the fact, and I consulted the record.

In 1894, the Constitution of New York provided that the sheriffs were not eligible for reelection. That was in 1894. In 1915, in the New York Constitution, this matter was taken up and debated and the same provision was put in the Constitution of New York, stating that the sheriff was ineligible. It shows the experience of a state like New York with reference to this office. In 1912, and I read the debates in the Ohio convention in 1912, this question was thoroughly debated, and the limitation was put in that Constitution only

eight years ago. In 1914, the limitation was put in the Constitution of Kansas, with reference to both of these offices, so we have not an ancient question, but a present day question with reference to not only this State, but other states in the union. Not only that, it is said there are only thirteen states, I believe, fourteen, but however that may be, I am told also in the Constitution of other states, this same limitation is placed with reference to these two offices. This is the situation. There is as much reason, and I am not going to take the time to recite them, for the sheriff not to succeed himself as the treasurer. In many of the Constitutions, the Governor cannot succeed himself, and Governor Lowden in speaking at a banquet the other night said in his opinion the Governor of this State should not be permitted to succeed himself. Why? To avoid the very thing that the sheriff does in all the counties, that is in building up a political machine, and failing to perform the duties of his office. I say in conclusion, there is an article that has been in the State Constitution for forty years. I say there is no demand from the people to eliminate it.

Mr. MAYER (Cook). It has been in the Constitution since 1848 as to the sheriff.

Mr. JARMAN (Schuyler). So it is the combined experience of this State for over sixty years. Are we going to put aside all this experience and simply say, let these men succeed themselves?

VOICES. Question, question, question.

CHAIRMAN SMITH. The question is on the amendment of the delegate from Cook, Mr. Cruden, to eliminate sheriffs from the amendment of the delegate from Schuyler (Jarman).

(Motion prevails by 49 to 27.)

CHAIRMAN SMITH. The question recurs on the amendment of the delegate from Schuyler (Jarman) as amended, which would mean that the treasurer cannot succeed himself.

(Motion prevails 44 to 37.)

Mr. HAMILL (Cook). I move that the committee do now recess until four o'clock.

(Motion prevailed.)

Whereupon a recess was taken to Wednesday, May 19, A. D. 1920, four o'clock p. m.

4:00 O'CLOCK P. M.

The Convention met pursuant to recess.

(Chairman Smith presiding.)

CHAIRMAN SMITH. The committee will come to order. The question is on the adoption of section six as amended.

Mr. TAFF (Fulton). I have an amendment I wish to offer to section six: Amend section six as follows: Strike out the following words of the amended section, "sixty thousand inhabitants and more," and insert in lieu thereof the following, "which have heretofore been electing recorders of deeds."

The object of this amendment which I have just offered is for the purpose of preserving in those counties which are now electing a separate recorder of deeds to continue electing him as they have heretofore been doing, but which will limit the election of recorder of deeds, which are now electing a county recorder of deeds as a separate office. In those counties which in the next census have sixty thousand or more would not under this be entitled to elect a recorder of deeds as a separate office. I do not believe we should increase the number of county officers. For that reason this amendment is offered. I move the adoption of the amendment.

Mr. MILLS (Macon). Would counties that will show a population of sixty thousand or more be allowed to have the right of a recorder of deeds under your motion?

Mr. TAFF (Fulton). No, sir, it would not. The object is not to increase the number of county officers in any county.

Mr. MILLS (Macon). Does that affect your county?

Mr. TAFF (Fulton). Yes, I believe it would. We will not be permitted to have a separate recorder of deeds, because I firmly believe the next census will give us over sixty thousand population.

Mr. MILLS (Macon). I do not see the force of the gentleman's remarks. If this amendment shall be voted down, then the expense, if any, will come upon the counties that are entitled under this original resolution, or amendment to vote an expense upon themselves and to have this privilege, which in all fairness those counties should have, and it seems to me it is unfair to those counties that are on the border line to be deprived of that right; counties that have this extra office, and representatives here have demonstrated and stated to this assembly that it is an advantage to a county having that population, and it seems to me that it is not advisable to deprive counties having that population or which may have in the future, to deprive them of that right.

Mr. DOVE (Shelby). I was opposed to extending the recorders to any counties of the State that do not now have them, but I was in favor of consolidating the county recorder with the circuit clerk in all the counties, but inasmuch as the Convention has heretofore determined that it is in favor of retaining the recorder in counties having more than sixty thousand, it seems to me it is illogical and unfair to deprive other counties that might reach that number in population from having a recorder hereafter, and for that reason, if one county is entitled to have a recorder as a separate office, after increasing its population to sixty thousand or more, the same privilege should be accorded to every other county in the State, and for that reason I am in opposition to the amendment.

Mr. MOORE (Macon). It appears that this amendment is offered simply as a matter of pique. The Committee of the Whole having decided that counties having sixty thousand population should have a recorder of deeds, it seems to me fruitless to go into further voting on the subject. I therefore hope that this amendment will be lost.

Mr. TODD (Peoria). I would like to ask a question: What provision do you make for recording papers in counties that have a population of more than sixty thousand people and which have not been electing recorders?

Mr. TAFF (Fulton). I understand that counties at the last census which had a population of sixty thousand or more are electing a separate office of recorder as provided by the old Constitution. It would only affect those that had sixty thousand or more under the 1920 census.

Mr. CARLSTROM (Mercer). I would just like to have the question stated as I understand it, and I believe I understand it correctly. The effect of the amendment as now offered is to forbid the people of a county whose population is now or may hereafter become sixty thousand or more from the right of electing a recorder. That is the essence of it?

Mr. TAFF (Fulton). Yes.

CHAIRMAN SMITH. The question is on the amendment offered by the delegate from Fulton (Taff).

(Amendment lost.)

CHAIRMAN SMITH. The question is on the adoption of the section as amended.

Mr. TAFF (Fulton). Might I not suggest that the wording of the last part of that amendment may not give exactly the intention of the mover of the amendment. Under the present law the treasurer is collector of taxes, and even under the old law he had certain duties with reference to the collection of taxes, and it may be leaving out the word "county" might not get the view of the mover of the amendment, and I suggest probably it would be better to insert the words "county collector of taxes."

Mr. GRAY (Adams). I think the gentleman is in error. The article as amended provides for the election of county treasurers who shall be ex-officio collector of taxes.

Mr. TAFF (Fulton). Under the old law the county treasurer had certain duties with reference to the collection of taxes. I want to get away from any proposition that the duties which he had at that time might include the sole duty of the collection of taxes. He had a partial duty.

CHAIRMAN SMITH. Does the delegate offer that as an amendment?

Mr. TAFF (Fulton). It is only a suggestion. The amendment was not presented by me.

CHAIRMAN SMITH. If there is no objection to inserting the word as suggested, might not that be done? The question is on the adoption of section six as amended.

VOICES. Question, question, question.

(Section six adopted.)

CHAIRMAN SMITH. Please read section seven.

(Section seven read by secretary.)

Mr. BRENHOLT (Madison). I offer a substitute for section seven: "The General Assembly shall fix the salary of all county officers according to the size of the county by population. The county board or county commissioners shall designate the amount of their necessary clerk hire, stationery and other expenses. The compensation herein provided for shall be paid out of the county treasury, but shall apply only to officers elected after the adoption of this Constitution." I introduced Proposal 187 to this effect. The State Association of county clerks, supervisors and recorders and probate clerks at Peoria last year to the number of six hundred delegates, were unanimously of the opinion that much better results could be obtained by having the General Assembly fix the compensation and salaries of the county officers.

Mr. JARMAN (Schuyler). What do you mean by better results, salary?

Mr. BRENHOLT (Madison). I mean by that sufficient salary to get a better class of men and to give them more money to live on. The experience we have had has been that the amount of compensation in the various counties differs very materially. The officers of Madison county have been trying, where the salary is not sufficient, to get the county board together with the idea of making a uniform salary with regard to classification of counties, and thereby getting a sufficient salary allowed by the board for the various county officers. This matter is by the request of the association that I introduced this proposal, and I had hoped that it would be adopted.

Mr. FIFER (McLean). I am very much opposed indeed to the amendment. The power to fix the salaries of the respective county officers, has been lodged in the board of supervisors of the respective counties for fifty years. Now, if there is anybody that is dissatisfied with that outside of the men who are holding office, I have not heard of it, and I want to say that in my judgment should this Convention take that power away from the board of supervisors and cast it upon the General Assembly you will see a perfect cloud of office holders from all over the State of Illinois at every legislative meeting in order to force through an increase of salary. The board of supervisors fix the salaries for their own political division. It does not affect any county outside, and if the gentlemen do not wish to accept the office with the salary fixed by the board, I suppose there will be no difficulty whatever in finding those who would accept it, and I feel quite sure that the people would wonder and be startled by the proposition that this privilege should be taken away from the board of supervisors and placed with the General Assembly of the State. In all the propositions that have been offered to this Convention assembled, I think there would be none more unpopular or strike the people of Illinois more unfavorably than the pending amendment we have before us, and I sincerely hope that the Convention will vote it down.

Mr. WALL (Pulaski). It is simply another effort, it strikes me, to centralize power. If the amendment provided that these salaries be paid out of the State treasury, then I assume the different counties would have no objection to the legislature fixing the salaries, but there would be, as stated by the distinguished gentleman from McLean county, a lobby at every session of the General Assembly to raise these salaries, beyond a doubt. This is a local matter, and every county understands its position better than the matter can be presented to the legislature. It is a privilege it has, not to be taken from it, to fix the salaries of the officials enumerated in this article. I believe that this provision would be very bitterly opposed, if favorably acted upon by this Convention, and I am very much opposed, Mr. Chairman, to this provision, and I hope that this section will be adopted as it reads.

CHAIRMAN SMITH. The question is on the adoption of the substitute of the delegate from Madison (Brenholt).

(Substitute lost.)

CHAIRMAN SMITH. The question recurs on the adoption of section seven as read.

(Section seven adopted.)

CHAIRMAN SMITH. Please read section eight.

(Section eight read by the Secretary.)

Mr. DUPUY (Cook). I would like to offer an amendment, which in my opinion will improve this section: Insert after the word "laws" in line two thereof, the word "uniform in their operation on all counties," so the first two lines will read, "The General Assembly, notwithstanding the provisions of section four to seven inclusive, of this article, may enact laws uniform in their operation on all counties for the organization and government of counties." I do not wish to make any argument in favor of this. The object of this is apparent. It would be competent for the legislature to provide a different form of government for each county, and this is intended to make the laws uniform throughout the State.

Mr. HAMILL (Cook). Is it your understanding, as amended by your proposal, that it would be competent for the General Assembly to make any classification of counties?

Mr. DUPUY (Cook). Possibly not. That would require some further amendment, because without these words it is perfectly obvious that the legislature could pass one law for Pulaski and another for Winnebago county. That is something that would not be desirable. If the power of classification should be incorporated, then I think a further amendment should be submitted to that effect. I think this should not be adopted without this amendment, or something similar.

Mr. DUNLAP (Champaign). I would like to suggest to the Judge, if you would insert the word "uniform" between "enact" and "laws," it would possibly improve the sentence.

Mr. DUPUY (Cook). I will accept the suggestion, Mr. Chairman, so it will read "uniform in their operation upon the several classes of counties." Mr. Dunlap has suggested these words, "uniform as to classes of counties." I am perfectly satisfied with the suggestion, and I ask that those words be substituted.

Mr. GRAY (Adams). Before a vote is taken on this question, as a member of the Committee on County and Township Organization, I would like to state to the committee the object the committee had in view. There are already two forms of county government in this State. It was considered by the committee that sometime in the future history of Illinois, it might be desirable that a different form of county government be adopted. This provision was made with that in view, and under this article as submitted by the committee, leaves each county to retain its form of government as it now has, and if the legislature should see fit to create a uniform county government then each and every county would be privileged to adopt that form of government, if it saw fit. I therefore object to the amendment, believing that the section submitted by the committee would meet the approval of the people, leaving each county to its own choice, whether it retains its present form of government or adopts a new form.

Mr. FIFER (McLean). It seems to me this is a dangerous experiment proposed by this section under consideration. It will permit the General Assembly to change every county government in the State of Illinois, and what good purpose could be served by a change in our county government, a government which is the closest government to the people we have? It is true the proposal makes provision that when proposed by the legislature, it shall be submitted to a vote of the people in the county to which it shall apply, but it only provides for a majority vote on the question. Now, should you pass a law involving that, in my judgment, it will be a wide open door for all the cranks and experimenters in the State of Illinois, and the people will be annoyed and harassed with proposed changes in county government until it is taken out of the Constitution. I can scarcely conceive of a thing more

foolish, more unnecessary, and less thought of by the people of Illinois than to allow the legislature of the State to change entirely without limitation county government. What is the matter with our county government? The Constitution will provide when you get through with it all the county officers and boards of supervisors, and so on. I have heard no complaint of county government. We can go back to the old commissioner form, but I doubt if any county in Illinois that now has the board of supervisors would want to go back. Now, we are to have practically no limitation, if this proposition becomes a part of the Constitution, in respect to the formation of different county governments in our State, and I don't know if under the proposed amendment, each county in the State might have a different government; some would adopt one thing and some counties adopt another. We take that up by the present Constitution, the laws must be uniform in all counties; this doctrine that the justice of the peace should have jurisdiction in one county for five hundred dollars, in a neighboring county for a less sum, and in another county for a different sum, we dig that up by the roots like the farmers do the Canada thistle, and now these gentlemen would have it take root and grow in Illinois again. I think we should vote it down.

Mr. TAFF (Fulton). As a member of the Committee on County and Township Organization, I will say that the committee probably spent four times as long on this particular section as upon any other section in their entire report. The matter was very carefully considered from their viewpoint and standpoint. Under the present Constitution we have two forms of government, one the county commissioner form, and the other the township form of government. Both of them have very antiquated propensities; in fact there is no one in the county in the State of Illinois upon whom you place responsibility for any act of county government. The legislature's hands are tied to these two forms of government and they cannot abolish either form of government. The proposals and the sections which you have now adopted up to this section conform with the old Constitution, and if they become a part of the new Constitution the legislature's hands are still tied to the two forms of government, in which government you have nobody of responsibility. There is no part of our government in my opinion which needs attention worse than that of county government. County government has been given little attention throughout the United States.

Very little has been written or thought about county government. City governments are far ahead of county governments, and it is only now they are beginning to give attention to county governments. It is therefore necessary, and your committee thought it necessary that some section be placed in this report which would leave the legislature free to establish certain forms and kinds of county government. It is questionable whether the legislature can enact very many forms of county government under this section; that they, under certain decisions made by the Supreme Court, would be limited to a reasonable classification of the counties. In some of the earlier drafts, it was thought by the committee we should limit perhaps the number of classes, but after a thorough review of the cases, and getting the opinion of expert lawyers upon this proposition, we thought it was not necessary to put in the number of classes. We are of the opinion that this section should be adopted in the form in which it is brought in by the committee report. It is the only way in which you can open the door, by which you can in the future obtain any improvement in your county government; you must at this time give to the legislature some power to enact some different form of government other than the two which you are today tying up in the Constitution. If you are thinking to eliminate the two forms of government which you now have and leave it to the legislature, then that might be the practical way to do it. In my opinion it would be the best way to do it, and in the opinion of the committee as reported out, we thought that that would not be advisable at this time, because of the lack of study and experience in the new methods of county government, also from the further fact that it would possibly get a great deal of criticism from the counties over the State, word going out we were abolishing all their forms of government.

Now, then, as to whether or not the legislature might enact a law which was for the benefit of the county, it rests solely and wholly with the county whether or not they shall adopt that form of government. It can adopt it or not as they choose. Having adopted it they can continue under that form of government. We think that this is the opening wedge by which the legislature may improve the county government, and we hope and trust that you will not tie the hands of the legislature and tie the hands of the counties throughout the State of Illinois to the two antiquated forms of government, which are now imposed upon them, and we respectfully ask that you adopt this section without amendments as written by the Committee on County and Township Government.

Mr. LILL (St. Clair). I think this section is the most important in the whole report. I do not quite agree with the distinguished delegate from McLean (Fifer); I do not think this is as revolutionary as he says. I am not very much afraid that the legislature will devise some undemocratic, un-republican form of government. Let us consider the experience of the past. Under the Constitution as at present, there is no provision at all therein with reference to city government. The legislature has not enacted laws which are revolutionary in reference to city government, but in fact a great number of the delegates to this Convention think that the legislature has been too conservative, and they would bring before you a proposition for home rule. I believe the county government is the weakest part of the government we have in this State.

I am a member of the board of supervisors in our county, which is the second largest county in the State, and I have carefully considered county affairs. I have taken more interest in county affairs than any other affairs of government during those two years, and I was astounded at the conditions of county government. There is nothing in our whole government which is similar to county government. There is no head nor tail to it. We have the county board, but what is it? It is an administrative body. In fact, in our county we have got fifty-one members on that board, and according to the next census, I suppose we will have sixty-five to seventy members on that board doing that administrative duty. Now, gentlemen, any man who has had any experience in public affairs, knows that an administrative body should be small. Just think of fifty-one members sitting in a room and considering matters of administration. It is ridiculous, and the result is this. Under our rules, and we have a peculiar arrangement down there—not only do we have the statutory meetings, but a session on the first Saturday of every month. Matters come up and the business is done in committees. If the committee is strong, you are all right, but if the committee is weak, you are all wrong. We meet at ten o'clock. I am saying nothing with reference to the smaller counties, because I know nothing about their government. All these matters are transacted before a committee of three. They make their report, some fellow will jump up and move to adopt, and the matter goes through. It may involve thousands of dollars. On the other hand, a matter of trivial importance may engage their attention for an hour or so.

The reason for it is this. I find down in my county that there is quite a difference between the members that come from the rural districts and the members on the board who come from the larger cities, and there is a reason for that. A supervisor who is elected from a country district is ex-officio treasurer of the town funds and the road and bridge fund. Now, because of that fact the township will necessarily be careful whom they elect to that office, because they know he is custodian of the funds, so necessarily they will get a pretty good man for that office, and furthermore they know he is very often a member of the bar, a member of the board of health, board of auditors, and so forth. Now, in the cities, the supervisor from the larger city, has none of those duties. His duties pertain only to county matters, so we have this result. We have got some good men from the rural districts, but very often some poor men from the city, for the same reason, they have not the duties, the people in the city do not interest themselves in county affairs, and the average man will not

run for office unless there is something to it. Our county has been very fortunate in getting good men from the city. We have some men who have no conception of public business, do not care for it at all. Very often matters of importance are adopted in the session without debate, they simply go through, while other matters which amount to a few dollars only, take hours of debate.

A few months ago the county treasurer bought an ink well, costing about a dollar and sixty-five cents; he claimed the committee refused to O. K. the bill, and the matter was referred to the board. That matter was debated upon very eloquently for about one hour, and the main point that was raised was that the construction of the ink well caused so much ink to evaporate, and the county would lose money through the evaporation of ink. A few months later on the committee presented a report providing for the sale of four hundred thousand dollars worth of bonds for the building of roads. These bonds had to be O. K'd by a referendum vote, but no provision was made for the payment of interest. That matter was carried by the snap of your finger, and today we do not know how we are going to pay for it because we have all we can do to pay our current expenses. I think the county government is the weakest form of government we have.

Each township is entitled to a supervisor, and the largest cities are entitled to a chief supervisor and an assistant based upon population, one assistant supervisor for every four thousand inhabitants. Now, the legislature may, if it sees fit, raise that provision and make it one for ten thousand inhabitants. I think it is unfair to the larger centers of population. I personally come from the country, but I see where it would be unfair for the larger cities, like East St. Louis, which claims about seventy-five or eighty thousand inhabitants, and some township with six, seven or eight hundred inhabitants, has one for that number. That would be unjust, and the fact is that is not representative, because of a great many reasons. The men from the city take a broader view of the matters than the men from the rural districts take. I have been very much interested in this section because I believe the different forms of government should be provided for counties. It has nothing revolutionary about it at all.

I do not believe the commission form of government is the proper form, that is three commissioners, because I think the county is too important, and the chances would be you might not get a representative commission, and various other forms of government, perhaps five or seven commissioners, or perhaps some form of government, like our city government a president and advisory officer. There are various forms of government, which can be thought of. I hope that this amendment will be adopted, because I think it is the thing which will really permit the proper control of county affairs. Now, my objection to the present Constitution, is it has too many details, I think the county has been tied up too much. There is another reason; I think the Constitution has been making a mistake in making one form of government for all counties. I find that men from the smaller counties take an entirely different viewpoint on matters than men from the larger counties. Now, for instance, as to county officers. In the smaller counties some of the offices might as well be combined, because under the present system with many officials the county cannot afford to pay a reasonable salary. The work does not justify a good salary. We have not enough business. We have officials receiving twelve hundred dollars, and a lot of the offices could be combined, but the larger counties would want more. That is one reason why there should not be any unified plan in the Constitution, but leave a leeway for the legislature to provide for some other form of government.

Mr. MOORE (Macon). I quite realize it may be desirable at sometime to change the system of county government, and to give to the General Assembly power to do so. I had intended to offer an amendment to this article requiring a majority of the voters of the county should approve before changing county government, but at the suggestion of a member of the Committee on County and Township Government, and having in mind the discussion of the necessity of investigating whether or not a majority had voted, I now offer this amendment: Strike out of line four of section eight

the words, "majority of those voting," and insert "sixty per cent of those voting."

Mr. BRENHOLT (Madison). Point of order. We have two amendments now.

CHAIRMAN SMITH. This amendment is out of order until we dispose of the other amendments. The question is on the amendment of the gentleman from Cook, Mr. Dupuy.

(Amendment carried, 49 to 11.)

CHAIRMAN SMITH. The question now is on the amendment offered by the gentleman from Macon, (Moore).

(Amendment lost.)

Mr. HAMILL (Cook). Just a very brief suggestion on this proposal. If we do not adopt this section we are in effect asking the people of this State when we submit this Constituion to them, to declare that they are incompetent hereafter to determine how they will organize their county government. I conceive it is the intention of the State government to organize the government and to impose those limitations upon the officers of the State government which the experience of history tells us are necessary, and we ought not to impose limitations other than those which are found by experience are necessary. Our theory is that people are capable of self government. We want to restrain them from doing unwise things in times of excitement. We do not want to restrain them from doing those things which they feel to be wise and for their welfare, and it seems to me therefore we may safely leave to the people of this State whom we are bound to trust, because they elected us, to determine from time to time how their county organization shall be established and maintained. I am in favor of the section as it reads.

CHAIRMAN SMITH. The question is on the adoption of section eight as amended.

(Section eight adopted.)

CHAIRMAN SMITH. Will the Secretary please read section nine.

(Section nine read by Secretary.)

Mr. SCANLAN (LaSalle). I offer the following amendment, and move its adoption. Amend section nine by substituting in lieu thereof, the following: "The General Assembly shall by general and uniform law provide for and regulate the fee of all county and township officers, and shall provide for a uniform system for conducting the business of all county offices. All fees, allowances, emoluments, and all interest on public funds received by any county officer, shall be paid into the county treasury. The General Assembly shall by general law provide that county offices be supervised, examined and audited by a department or agency of the State, and based upon such provision, examination and auditing, may by general law fix a period beyond which any suit or action shall be brought on the official bond of a county officer, except for concealed fraud."

I do not think this Convention is bound by the report of the committee on this section of the article. Section nine as reported by the committee provides "The General Assembly, shall by general and uniform law, provide for and regulate the fees of all county and township officers. All fees, allowances and emoluments, and all interest on public funds, received by any county officer shall be paid into the county treasury." I urge the adoption of the section as amended by me. I do not think the Convention is bound by any action of the committee; it is for this Convention to create the section and it is up to this Convention to determine what they are going to incorporate in the section.

(Amendment lost.)

Mr. JARMAN (Cook). I move the adoption of section nine.

CHAIRMAN SMITH. The question is on the adoption of section nine as read.

(Section nine adopted.)

CHAIRMAN SMITH. Will the Secretary please read section ten.

(Section ten read by the Secretary.)

Mr. JARMAN (Schuyler). I move the adoption of section ten.

(Section ten adopted.)

CHAIRMAN SMITH. Please read section eleven.

(Section eleven read by the Secretary.)

Mr. WALL (Pulaski). I move the adoption of section eleven as read.

(Section eleven adopted.)

CHAIRMAN SMITH. Please read section twelve.

(Secretary reads section twelve.)

Mr. SUTHERLAND (Cook). For the purpose of giving light to the Revenue Committee, and also because I think it is illogical to have statutory limitations on all other tax rates, and to continue the constitutional limitation on the county tax rate alone, I move to amend section twelve by striking it from the committee's report.

Mr. LOHMAN (Cook). I think this is practically the exact wording that will be brought in by the Revenue and Taxation Committee. I do not think it belongs in this report at all. I think it is purely a taxation proposition, and should be brought in with the report by the Committee on Revenue and Taxation.

CHAIRMAN SMITH. I would like to ask the delegate from Cook what assurance we have there will not be a limit placed on counties so as to obstruct the very thing that this article designs, namely, the county unit on roads.

Mr. SUTHERLAND (Cook). I can only say this. A subcommittee was appointed consisting of Mr. Warren, Mr. O'Brien and myself, and the subcommittee recommended that that limitation be eliminated, and that report was concurred in by the Revenue Committee tentatively, and we reported to your committee that was our tentative action. I think we would be guided entirely by the vote taken today. The subject is up, it is the proper place to raise the question, and then the Revenue Committee can bring in such a report as the Committee of the Whole shows it is desirous to have.

Mr. GRAY (Adams). The object of this committee was to provide for county aid to roads. Therefore, it belongs under the county organization. This provision of seventy-five cents upon the one hundred dollar valuation was to provide for making a county unit, and the county would have funds to devote to that purpose. I hardly think the Revenue Committee would probably specify in their report what we are trying to accomplish, namely, that a certain percentage was for road purposes. I think therefore this belongs in the county proposition, this particular proposition.

Mr. SUTHERLAND (Cook). There is now no constitutional limitation forbidding the levying of taxes for road purposes, and if the present limitation in the Constitution making it seventy-five cents for general purpose was stricken out, it would leave the General Assembly free to provide for the levying of road taxes and would leave all existing taxes provided for by law exactly as they are today.

Mr. GALE (Knox). As Chairman of the Revenue Committee, I was directed to offer a substitute for section twelve, which substitute I have prepared and am ready to offer. Of course I shall not offer it if the motion of the gentleman from Cook (Sutherland) prevails.

CHAIRMAN SMITH. The motion is to strike out section twelve.

(Section twelve struck out.)

CHAIRMAN SMITH. Please read section thirteen.

(Secretary reads section thirteen.)

Mr. LINDLY (Bond). I move that section thirteen be stricken out.

Mr. DUNLAP (Champaign). I offer this as an amendment. Amend Proposal 362 by striking out all of section thirteen, and substituting the following: "Section thirteen. The General Assembly shall have authority to provide, on petition, for the improvement of roads and highways in part by special assessment levied upon the property benefitted thereby, whether such improvement is entirely within one township or county, or extends into two or more townships or counties; provided, that such petition shall be signed by a majority of the owners of the lands subject to such assessment, who represent not less than one-third in area of said lands."

Mr. LINDLY (Bond). My motion to strike out was made for this reason, we have voted and are now upon a system of building highways in this State

to the extent of sixty millions dollars, and we expect to continue that from the revenue derived from the automobile tax of the State, and I do not believe it would be right to levy a special assessment upon some lands in the State to build a road when you are not levying it upon all the land to build a road, and I therefore move to strike it out.

Mr. DUNLAP (Champaign). I regret that the delegate will not allow this amendment to come in because it requires two actions of the committee if his motion prevails. This is an important question I think to everybody in the State of Illinois. The question of roads, and the section as reported by the committee has some objections to it, I think, in the minds of most of the delegates. It furnishes too great an authority without any limitation on the General Assembly on this matter of levying taxes or special taxes, assessments for road improvements. I want to say to the delegates that I question the necessity for the amendment which has been read for their information. It is true we have established a State system of roads, but this State system of roads is simply a State system that does not take into consideration all the roads, in fact only about fifteen percent of the roads of this State. Now, those of you who live in the country can appreciate, as I do, the necessity for some law by which a man who lives in the country, or the community, can pull himself or itself out of the mud. Now, we have gone by in the history of this State the time when the township organization was adequate in furnishing the necessary means of building roads. We must have provision in the statutes or some authority given the General Assembly by which they can enact laws that will enable communities to properly prepare their highways in such manner that they are not forever and eternally kept out of communication in certain seasons of the year with the town. This is what this amendment that was read for your information proposes to do. I have in mind a county that has a county seat perhaps the center of the county, and perhaps two roads running crosswise of that county that are State roads, and will in the course of time be improved, but there are other parts of that county as well as those who live along those roads, that are to be improved that are interested in the transportation facilities to the county seat, and other towns in that county, and if you do not provide some means by which you can overcome the township laws that prevail and give the authority to the legislature to enact laws that will enable them to go more than beyond the limit of the township, why you will in my opinion restrict the liberty of the people who live in the country from some rights they ought to have. Now, if you wish to build a road from some community in your county to the county seat you have to go through more than one township, and in order to do that you must have some enabling act in this Constitution to have the authority to levy taxes for that purpose, unless you do as you do at the present time, let each township act to its own motion. If you are going through two or three townships you may have one or two townships act, and the other township refuse to build a road, and therefore, you are keeping those people barred out from transportation facilities.

My own idea is that the General Assembly, like the members of this Convention, are almost all of them land owners, and they understand and they feel if a law is to be enacted it should not be one that would impose a hardship on the land-owners who live along a certain line of road. This will act in this way, as is suggested here, it must be according to the benefits that are to be derived, the amount that they should pay. The legislature could easily ascertain that, by taking the roads that have been improved and ascertain the traffic over that road and find out what percentage of the traffic was from the people who went along that road and how much was through traffic. My own opinion is, based upon the figures of the highway department, that those who live along the road would not be required to pay to exceed ten percent of the cost of that road, and if that were true the legislature would probably enact a law that would provide that perhaps the county would pay a part and possibly the township a part, and the State a part of that.

We have now on the statute books of Illinois in the Road Act, county and State Road Act, the county pays fifty percent and the State fifty percent of the cost of building these roads. Now, in talking with some gentlemen that were instrumental in getting that bill through the legislature, they think if the legislature is given the proper authority that something like this would be enacted to take the place of that, and instead of having a half mile of road building, we would have the whole project coming before the county board for their determination. We would build on petition of those who live along the road who wanted it built, and the people paying ten percent of it, the county paying its part and the State its part, ultimately there would be another road built in there, and the people living along there would pay their ten percent, and perhaps when the roads are completed the facts are that the people who live along the roads would not have paid any more for their taxes than if assessed as a general property tax, but it does do this in general, it enables the people who live in the community that wants a road to obtain it. It is not to furnish some scheme whereby they might levy the cost of building these roads upon any neighborhood or upon any people living along the road, but to enable those people to pull themselves out of the mud, and I want to tell you my own experience—and some of you have apologized for giving your own experience here. Our own experiences show a little human element and that I think is sometimes interesting. A few years ago before the building of these hard roads was inaugurated, before we had any State and county aid law, those who lived along a certain road in my township, a half mile from the edge of the township running into the City of Champaign, got up a petition to have a hard road built there, and to show their interest they subscribed two thousand dollars a mile toward the building of this road, which amounted to possibly twenty-five percent of the cost of the road, and yet notwithstanding they were willing to pay that assessment, other parts of the township, three-fourths of the rest of the townships defeated that proposition, and refused to let them have that road although they were willing to contribute towards it.

This provides for paying a certain amount of the tax as fixed by the legislature; the people in any community can build a road and connect up with the State system of roads, where the two run not only in one county but in two or more counties if necessary, and I have had resolutions sent to me when I was a member of the General Assembly asking me to have a law enacted along this line, but it was unconstitutional to have it done, but since coming here I understand that some counties in the western part of the State have passed resolutions asking that some such change be made. Now, gentlemen, I am not advocating this because it means anything to me individually. I live upon a hard road, and it is nothing to me at all. It is not a personal matter with me, but I have been chairman of the Road Committee in the Senate for several years and I know the necessity for some road legislation of this kind, that it is imperative, and I believe if you will scan this amendment carefully, you will be in favor of it. No harm can come from it. Now, this last provision here is an exact copy of that provision in the drainage law which requires a majority of the owners of the land subject to such assessment, or who own one-third of the lands to be assessed; I think that is perfectly fair and I think it is safeguarded properly and I hope the gentleman's motion will be withdrawn, and allow the Convention to vote upon this proposition.

Mr. LINDLY (Bond). A few years ago I was a member of the legislature and probably introduced the first bill to organize the State highway. There was a committee appointed by the legislature to go out over the State and talk to the people upon this question. This committee went to the home of the gentleman who has just spoken on this subject. They had one special train into that town, and I think there were five thousand there to greet this committee, and I think the gentleman was there himself, and we were not permitted to speak upon the question of hard roads at all, because they thought we intended to levy a special tax on lands, and I believe the people now believe this is to be a special tax on lands, and I do not believe the gentleman's constituents believe it should be levied as a special tax on the land,

Mr. DUNLAP (Champaign). I am sorry that that meeting the gentleman attended at that time worked so hard upon his feelings that he has not forgotten it since. I accompanied the committee myself, and what he said is absolutely true, but he must remember that wise men change their minds, and I say to him in Champaign county, the board of supervisors some years ago passed a resolution asking me to have enacted here, or introduce a bill providing for such law as this.

Mr. GREEN (Champaign). It is very evident that this question is a big question, and that a discussion of the question should be prolonged, so as to give opportunity for all delegates to express their views. The amendment introduced really needs more opportunity for expression, and I move the committee do now rise and report progress.

(Motion prevailed.)

(President Woodward presiding.)

Mr. SMITH (JoDaviess). The Committee of the Whole reports progress and asks leave to sit again.

(Report adopted.)

THE PRESIDENT. The Chair would ask the consent of the Convention to submit on behalf of the Rules Committee two reports.

COMMITTEE REPORT.

Your Committee on Rules and Procedure recommends that Proposal No. 366, reported by the Committee on Legislative Department, be taken from the table and placed on the General Orders.

(Report adopted.)

THE PRESIDENT. The Committee on Rules and Procedure submits a further report.

COMMITTEE REPORT.

The Committee on Miscellaneous Subjects, having filed its report recommending that Proposal numbered 195, 314, 315, 342, and 333 be rejected, and said report having been ordered to lie on the table and be printed.

Your Committee on Rules and Procedure recommends that said report of the Committee on Miscellaneous Subjects be taken from the table and placed on the General Orders.

(Report adopted.)

PRESIDENT WOODWARD. Following the hearing on the report of the Committee on County and Township Government, the report of the Committee on Corporations is next on the calendar. The Convention by the adoption of the report of the Committee on Rules and Procedure has now placed on the calendar the five proposals recommended to be rejected by the Committee on Miscellaneous Subjects, and has also placed on the calendar the report of the Committee on Legislative Department, which combines all of the legislative articles excepting the legislative apportionment. There is therefore considerable work before the Convention which the Convention may do. Now, the Chair thinks that the time has come when we ought to begin considering very seriously the closing of the work of the Convention in order that the work may be placed in the hands of the Committee on Phraseology and Style, and that this work should be accomplished by the Convention before any recess is taken, excepting a recess may be necessary on account of the holding of the Republican National Convention in Chicago, and to that end the Convention will have to work probably more hours than at the present time. There is now enough on the calendar to justify working on Friday of this week and on every other Friday of the succeeding weeks. The Chair is willing to work and is anxious to work on Friday if the delegates to this Convention so desire. Now, the Chair has thought that tomorrow morning he would ask the delegates to indicate whether or not they prefer to stay and work on Friday of each week in order that we may know by tomorrow morning when we convene whether or not the program will be to work

on Friday, and the Chair as stated will ask the members tomorrow morning to indicate their preference.

Mr. CARLSTROM (Mercer). I take it that the chairman will define the hours to remain on Friday. Has the Chair anything in his mind about the hours?

THE PRESIDENT. The Chair first would make the request in general if the delegates wanted to work all day Friday, and next if they did not care to do that, whether or not they desire to work any time during Friday.

Mr. CARLSTROM (Mercer). I am in hearty accord with what the Chair has stated. I am willing to submit myself to any inconvenience of a personal kind, but I am somewhat concerned in the hours.

Mr. SUTHERLAND (Cook). Is it the program of the Rules Committee that we have a session tomorrow afternoon?

PRESIDENT WOODWARD. The Chair was of the impression there would be no question but what we would work tomorrow afternoon.

Mr. SHANAHAN (Cook). I move we adjourn until nine o'clock tomorrow morning.

(Motion prevailed.)

Whereupon an adjournment was taken by the Convention to Thursday, May 20, A. D. 1920, nine o'clock a. m.

THURSDAY, MAY 20, 1920.**9:00 o'Clock A. M.**

The Convention met pursuant to adjournment.

The President in the chair.

Prayer by the Chaplain.

THE PRESIDENT. The Journal of Tuesday, May 18, A. D. 1920, was placed on the desks of the delegates on yesterday and is now subject to correction. There being no corrections proposed, the Journal of Tuesday, May 18, A. D. 1920, will stand approved, and it is so ordered.

Whereupon the Convention proceeded upon the order of special orders of the day, reports of standing committees.

Mr. DOVE (Shelby). Your Committee on Initiative, Referendum and Recall presents a majority and minority report.

Your Committee on Initiative, Referendum and Recall to which was referred Proposals numbered 133, 209, 230, 313, and 318.

Reports the same back with a substitute therefor, being Proposal No. 367, a Proposal providing for a legislative Initiative and Referendum, hereto attached.

And recommends that the original proposals, above enumerated, be rejected, and that the substitute Proposal No. 367, be placed on the General Orders.

Signed, OSCAR E. CARLSTROM,
E. D. POTTS,
ERNEST KUNDE,
JAMES P. JACK,
GEO. P. LATCHFORD,
THOMAS F. FROLE,
OSCAR WOLFF,
EDWARD J. CORCORAN,

(Signed for the purpose of getting on the floor and reserving the right to introduce minority report.)

Committee.

Mr. CORCORAN (Cook). I have a minority report.

Mr. Corcoran, from the Committee on Initiative Referendum and Recall, submitted a further Minority Report being Proposal No. 368, and recommended that it be placed on the General Orders.

A minority of your Committee on Initiative, Referendum and Recall, recommends that no proposal or provision for the Initiative, Referendum and Recall be incorporated in the Constitution of 1920.

Signed, A. H. MILLS,
T. C. KERRICK,
S. W. MCGUIRE,
A. E. TAFF,
A. F. GOODYEAR,
GEO. A. DUPUY,
F. P. DOVE.

THE PRESIDENT. The majority and minority reports under the rules are ordered to be printed and lie upon the table.

Whereupon the Convention further proceeded on the order of reports of select committees, introduction of proposals, first and second reading of proposals, motions and resolutions, unfinished business.

THE PRESIDENT. Before passing to the general orders of the day the Chair reverts to the statement he made last evening to the effect that he would ask the delegates to indicate this morning whether or not they

desire to and were willing to work during tomorrow. The Chair therefore asks that all delegates who are willing to remain over and will remain over and work tomorrow indicate whether they will do so or not by rising.

Mr. LINDLY (Bond). I remained in my seat because I have sickness in my family and I have to go home this afternoon.

Mr. HAMILL (Cook). I have been in this Convention ever single session since the fourth of January with one exception. I cannot be here tomorrow. I am anxious for the Convention to sit every Friday, and I shall be here every Friday that the Convention sits except tomorrow.

Mr. CUTTING (Cook). I am in much the same position as the gentleman who has just spoken. Arrangements have been made for tomorrow which make it impossible for me to remain over, but any other Friday I shall be perfectly willing to stay and work.

Mr. BRENHOLT (Madison). Not believing there was to be any session tomorrow I have made arrangements to attend to some very pressing business at home. I have been present at every session of the Convention and am willing to stay over and work on every Friday.

Mr. WOODWARD (Cook). In view of the fact that I am a witness in some litigation that has been partly heard in Chicago and was postponed until tomorrow at my request, on account of my attendance in the Convention, it seems absolutely necessary that I be home tomorrow. Any other Friday that the President desires my attendance here, I shall be glad to make arrangements to be present.

Mr. DUPUY (Cook). I will be glad to stay every Friday and work, and I think the delegates should feel that in the interests of expedition they should stay here and work every Friday.

THE PRESIDENT. The Chair will state the proposition in another way, and ask those who are willing and will remain tomorrow to work from nine o'clock to eleven thirty in the morning, please indicate by rising.

The Secretary advises the Chair that 44 have indicated their willingness to work tomorrow.

Mr. TRAUTMANN (St. Clair). In view of the explanations that have been made, based largely on the suddenness of this request, permit me to suggest that you get the information as to how many can and will be here next Friday.

THE PRESIDENT. The Chair will state that a number of proposals are on the general orders. The Chair is advised that at least one committee and possibly other committees will have their final reports ready early next week which can be placed on the general orders. There is therefore enough on the general orders to warrant the Convention now in determining whether it can work and is willing to work on next Friday following the suggestion of the delegate from St. Clair (Trautmann), I will therefore ask all those who think now they can work and will work on Friday of next week, please indicate by rising.

The Secretary advises the Chair that sixty-four have indicated their willingness to work on next Friday.

Mr. SHANAHAN (Cook). I move it be the sense of this Convention that we have an afternoon session today.

(Motion prevailed.)

THE PRESIDENT. There are a number of matters on the general orders for consideration by the Convention.

The Convention will now resolve itself into the Committee of the Whole for the purpose of hearing matters on the general orders.

Mr. CUTTING (Cook). Do I understand there will be a session of this Convention next Friday?

THE PRESIDENT. The Chair does not understand that the vote was indicative whether or not seventy would stay. Sixty-four voted for it. The Rules Committee has been of the opinion it would be inadvisable to work with less than seventy members.

Mr. CUTTING (Cook). The reason I ask is this, it is necessary to make arrangements to be here on Friday. If we can know before hand there will

be a session, many of us will make arrangements to be here, but if there is to be no session, it is a waste of our time to remain here.

Mr. GREEN (Champaign). I believe all the delegates to the Convention are well advised of the strenuous efforts that have been made by the Chair to have sessions on Friday. Under similar circumstances we have tried twice to have sessions on Friday and many of us have remained over with the idea of working on Friday. With the indication of only sixty-four votes in the affirmative, and judging by past experience, it is futile to expect there will be a quorum on Friday long enough to accomplish anything. It has been the common experience with many of us who remain over for Friday sessions, that we had to adjourn after about thirty minutes because of an insufficient number to transact business. It seems to me it is foolish to attempt to hold a session with only sixty-four now indicating they will be here because that will naturally be depleted somewhat when the time arrives, and those of us who remain will have wasted that day. I voted in the affirmative to work Friday on all motions, and I believe it should be settled, but if a sufficient number do not indicate their willingness to be present, we should not try it.

Mr. MAYER (Cook). It probably ill becomes me to make a suggestion on this matter, because I have not been here on any Friday during the session and probably shall not be, but I have one or two independent views. It seems to me there is no reason why we should not be boldly frank or frankly bold in discussing this matter. We have been in session all day Tuesday and up to eleven o'clock Tuesday night; all day Wednesday and until eleven o'clock Wednesday night; and we shall probably be in session all day today and until ten or eleven o'clock tonight. I do not mean the Convention is in-session, but the committees are, and that work is just as trying, much more so than to be in the meetings of the Committee of the Whole. After those three days here, there is a lot of work to be done in going over committee reports, and in making independent investigations and suggestions. Besides that, probably every member of this Convention has other business. I recognize that the business of the State takes precedence, but if we take all of three days and all of three nights besides working in committee, in our homes or in our offices, a considerable part of the balance of the week, it seems we have been very faithful in the discharge of our duty to the State. I want to use myself as an illustration, and a self-illustration is usually a bad example. I am compelled to be in Washington at ten o'clock next Monday morning. I am one of the counsel who is going to appear before the Interstate Commerce Commission in behalf of the carriers in an endeavor to obtain just and honest freight rates. That will take all week. I regard that duty a duty not only to the clients I represent but to the public as equally important, if not more important than my being here. Now, why should we not be willing to admit, aside entirely from some fear of unfavorable comment that may be made, that three days and three nights devoted in open session to the Convention and its committees, and a part of the balance of the week devoted to preparing amendments, suggesting and revising committee reports, is about all that should be expected of the members of the Convention? That may perhaps be an unpopular suggestion, but I feel that popular or not popular each one should express himself as he privately feels, and I am perfectly frank and candid about it, I think three days and three nights in continuous session and one or two days more in each week in committee work is about all that human nature will bear and produce good results. I shall not be here on Friday, and do not think I can be here on any Friday.

Mr. ELTING (McDonough). In fairness to some of the delegates that live quite a distance from the Capitol, I wish to say that I am of the opinion that three days work will probably accomplish more than if we try to work on Fridays. There are many of us, if we adjourn Friday, it takes the balance of the time to go home and come back to Springfield, and there is nothing accomplished. I have been one who has been present with the exception of one week since the Convention began, and have tried to assist in helping along with the work of the Convention, but I find there are others that con-

sume all the time when we have work Friday in going home and returning to Springfield. I think if we put in Tuesdays, Wednesdays and Thursdays in Convention, in conference and in committee work, that we would achieve better results than the uncertainty of meetings on Fridays. We have arrived at the stage of work in this Convention where the deliberations of this Convention are very important to the subjects that are being brought before us, and I agree with the delegate from Cook that three days hard work, of this kind of work, is about all the endurance that most of us can stand. I make a motion that we meet on Tuesdays, Wednesdays and Thursdays.

Mr. HULL (Cook). I think it would be unfortunate to say now we will not have a meeting next Friday, a week from tomorrow. We have an expression of opinion from sixty-four men that they can be here, and it ought to be possible to build on that, and we will get more than seventy men, and seventy men is deemed to be a desirable number to do the business of this Convention, and I should regret any action taken at this time concluding the subject of a Friday session next week.

Mr. CUTTING (Cook). If we cannot know whether there is to be a session on next Friday or not, we will know that there will be none, because the delegates will not stay on uncertainty. If it is sure there is to be one, we can make arrangements so as to be here, but if we cannot know for sure, we shall assume, as we have in the past, there will be no important session and many of us who have something else to do will be doing that thing. I therefore wish it might be decided now whether this Convention meets next Friday or not, because my attendance as well as many of the others who have spoken to me, will depend on that fact. I hope the vote will be taken on the motion.

Mr. WHITMAN (Boone). I offer as a substitute for the pending motion that we sit one week from tomorrow.

Mr. WALL (Pulaski). I concur in the substitute, because it is the sense of many delegates to this Convention that we do have some sessions on Friday of this Convention. The Convention has a great deal of work to do, we have many committee meetings and the work from now on will be more interesting than in the past, because we will be in Committee of the Whole a large portion of the time in discussing the various problems. I think a great many of the delegates to the Convention are impressed with the idea it is the duty we owe to the people and ourselves and the immense work we can do that we should utilize all the time possible.

Mr. BRENHOLT (Madison). There is only one question in my mind. If this Convention decides to have a session on a week from tomorrow, Friday, I think it would be well to state how long a session we will have on that day.

Mr. CORCORAN (Cook). I have been absent but one day, and have been here on several Fridays, and found there was no quorum here, and I have resolved before I stay another Friday I want to be sure of a quorum, and I move or suggest that we sign the members up for a week from Friday, and see if we can get a quorum. You lose a full day by staying on Friday. We come here Friday, count the members and go home again, and it is the loss of a full day.

Mr. HAMILL (Cook). I am in hearty accord with what has been suggested by my colleague from Cook, and in order that those who have been staying here may know whether those who vote on this resolution intend to be here in case it is carried, I demand a roll call upon the pending motion.

Mr. SNEED (Williamson). I am willing to stay over tomorrow, but arrangements have been made and I cannot be here next Friday. There is this much about it, that the fellows who come from the southern end of the State, if this Convention meets on Friday and adjourns at ten thirty or eleven, we fellows from the southern portion of the State cannot get home until the next day. It is not fair to us who live so far from the State Capitol to sit in session only until eleven or ten thirty, because it is a discrimination against the delegates from the southern end of the State. I realize this Convention should hasten its business as much as possible, and I think

we should do it, but at the same time if we have a session on Friday, my opinion is that that session should be an all day session.

THE PRESIDENT. The question is on the motion of the delegate from Boone (Whitman) to hold a session on next Friday a week.

(Motion prevailed 46 to 14.)

Mr. GREEN (Champaign). I move a reconsideration of that vote. I voted in the affirmative.

THE PRESIDENT. The question is upon the motion to reconsider.

Mr. HULL (Cook). All this voting can be nothing more than an expression of opinion as to whether we will or will not have a session a week from tomorrow. The Convention on Thursday of next week will determine its own course at that time, and it seems to me it is fruitless to reconsider or further discuss this subject. I therefore hope that the motion to reconsider will not be approved by the vote.

Mr. GREEN (Champaign). Having voted in the affirmative, and being willing to be here Friday myself, yet it having been demonstrated by only forty-six voting in the affirmative, there will not be any session, I desire to change my vote and vote against having a session next Friday.

Mr. JARMAN (Schuyler). I think there are a good many delegates who voted no on the question because it was not suggested whether or not we would have a session on Friday. If the understanding was we would have a session in the afternoon until four o'clock, they would be willing to stay all day Friday. I move as an amendment to the substitute that there be a session until four o'clock also on Friday.

THE PRESIDENT. The Chair is of the opinion that the amendment to the substitute is out of order. The question is on the substitute of the delegate from Boone that the Convention hold a session on Friday of next week. (Substitute lost.)

THE PRESIDENT. The question then is on the original motion offered by the delegate from McDonough (Etling) that we have a session on Tuesdays, Wednesdays and Thursdays of each week.

Mr. SUTHERLAND (Cook). I do not believe that the delegates to this Convention, if there is an intention to get through within any reasonable time, realize the amount of work that we have ahead of us. It gets awful hot down here from July first on, and if it the thought we are going to continue until the work of the Convention is in shape that it can be turned over to the Committee on Phraseology and Style for its final work subject to the final approval of the Convention, then take a recess over the summer months, I want to say we cannot accomplish it unless we meet on Fridays until the first of July, and there is some doubt as to whether we can do it then. I have seen a great many sessions of the legislature at work, and they do not think it is any hardship during the last two months of their session to meet four days a week. In fact the Senate generally starts out with a meeting on Monday afternoon. Now, if you are going to do business and get it done, we have got to meet on Friday, and I hope the motion to limit us to three days a week will not prevail, and that we may have early next week a reconsideration of this matter and a determination of getting down and doing business and getting through with it before we and the people of the State of Illinois get tired of the existence of the Convention.

Mr. IARUSSI (Cook). I believe we will make better progress if we will have a three days' session. Our honorable President appointed a Committee on Rules and Procedure and I believe theirs is the best judgment, where they felt justified in having three days for the people of Illinois and three days for their families. I think that is the best judgment, and I am in favor of being here three days.

(Motion lost.)

THE PRESIDENT. The Convention will resolve itself into the Committee of the Whole for the purpose of considering matters on the general orders. For that purpose the Chair designates Delegate Smith to act as chairman of the Committee of the Whole.

(Chairman Smith presiding.)

Mr. LINDLY (Bond). At the urgent request of the Chairman, and desiring there shall be full discussion on the question, I withdraw my motion to strike out. It does not mean I have changed my mind.

Mr. JARMAN (Schuyler). I move the adoption of section thirteen.

Mr. DUNLAP (Champaign). I desire to offer as a substitute for section thirteen, the following: "Section thirteen. The General Assembly shall have authority to provide on petition, for the improvement of roads and highways in part by special assessment levied upon the property benefitted thereby, whether such improvement is entirely within one township or county, or extends into two or more townships or counties; provided, that such petition shall be signed by a majority of the owners of lands subject to such assessment, who represent not less than one-third in area of said lands."

Mr. Chairman, the Committee on County Organization first reported section thirteen to read as follows: "The General Assembly may vest and confer authority on counties and townships with power to construct and improve public highways in part by special assessment or by special taxes on contiguous property, or otherwise." Now, Mr. Chairman, in introducing that proposal, the original, it was modified when the committee considered it to read in this form: "The General Assembly shall have authority to provide for the improvement of roads and highways in part by special assessment levied on the property benefitted thereby, whether such improvement is entirely within one township or county or extends in two or more townships or counties. Now, the objection to the committee reports is this. They provide that the counties and townships shall be authorized to levy special assessments and special taxes on contiguous property. In the first place, in my opinion the General Assembly should pass a law providing for the improvement of public highways on petition in part by special assessments and not by taxation on contiguous property. The reason is, as I understand it, that special assessments require that they should not exceed the benefits derived from such assessments, but that the special taxation on contiguous property does not devolve it to that extent at least, the tax can be levied without reference to the special benefit derived, and may exceed that. Now, the reading of this section, as the committee proposes it, is exactly as I understand it according to the statutes giving power to municipalities to levy taxes for special assessments. There is another objection to this, and that is that the levying of taxes or special assessments by a body corporate, the municipality or the county or township, as provided in this section, would limit that township or that county to the improvement that is to be made within that township or that county.

Now, what we want in this matter of road improvement is, that there may be some means provided by the General Assembly that a community that desires to construct a road that may proceed beyond the limits of the township or the county to some objective point, beyond, that they may have that authority to provide for such improvement. Now, the committee report does not give that, and this proposal that I have read to you, that is submitted to the committee would accomplish that purpose. The amendment, however, that I submitted as a substitute for this proposal, goes further than this. I find that there is a fear on the part of some in the Convention and some of those who are not in the Convention that the legislature might go further than it would be desirable in the matter providing that part of the special assessment, and might provide under this proposition an arbitrary construction of a road project, regardless of whether the people who lived along that road would want that or not, and saddle upon those people contrary to their desire, a special assessment by which they would be made to pay a part of that improvement. Now, that is not my object whatever, in introducing this amendment to the Constitution. It has come to me as Chairman of the Road Committee in the Senate, that there have been communities in the State who desired to connect up with some other community, and they desired to go beyond the limits of their township, and I have had to say to them that there is no law and no statute can be enacted by the General Assembly that will provide for such assessment, where a part may be paid by

those who want the improvement, except by an amendment to the Constitution, and now we are up to this proposition, and that is this, whether we as a Convention will stand in the breach and prevent the people who want to improve their road in the county and who want to reach this State system of highways, or some objective point, whether we will block that progress because we are afraid that the legislature may go too far. Now, in order to allay that fear, I have added to this proposal that I have submitted this morning, that such assessment and such project can be provided for by the General Assembly on petition only, and on that petition, that such petition shall be signed by a majority of the owners of the land subject to such assessment who represent not less than one-third of the area of the lands. If that is not a perfectly fair proposition to those interested in protecting the land owners of the State, and also providing a means by which those who live upon those roads and want these roads constructed, can have them constructed, I am not able to tell what is. You might say it might be objected to that this latter provision is a legislative matter. For one I am perfectly willing to let the legislature take care of that.

I believe the members of the General Assembly, being land owners like we are in this Convention, will probably protect the lands against any unjust assessment for road purposes, and believing that this provision is not necessary, and in order to allay the fears of those who think the legislature might go to an extreme, I put this in. The members of the legislature, if they are not land owners, they represent land owners, and it is safe to say that any law that the legislature may enact and the Governor would sign, would be fair to all concerned. I want to say that another objection to this proposition as reported by the committee is, that it would not allow the corporate authority in a township or the county to take part in the improvement or project that will go beyond their tax levying power. That is referred to in the Illinois report, the 246th, where one municipality had undertaken to improve their drainage system by connecting up with another municipality and township, and undertook to take part in that project by levying a tax beyond the limits that the law provided for that improvement, and it has been decided by the Supreme Court that if a sewer goes from one municipality to another, that is one project and not a separate project, and in order to meet that difficulty this language, "which shall be in one or more townships or counties" is included in this suggestion.

Mr. LINDLY (Bond). May I ask a question. What is the corporate authority in the township that would have control of this assessment?

Mr. DUNLAP (Champaign). Well, the tax levying authority of the township.

Mr. LINDLY (Bond). What is that, that would make the special assessment?

Mr. DUNLAP (Champaign). The same authority that levied any other tax, the justice of the peace, the town clerk and the highway commissioner.

Mr. LINDLY (Bond). Who determines what the area of the land is that one-third of them should petition for?

Mr. DUNLAP (Champaign). That would be a matter for the legislature to determine how far they would take in lands on either side, in providing by statute how this project should be carried out, but whatever that way is, it would require a majority of the land owners in that way to take care of it.

Mr. LINDLY (Bond). This amendment says one-third.

Mr. DUNLAP (Champaign). It says there shall be a majority of the land owners who shall own at least one-third of the area to be assessed. You know in a matter of this kind, for the construction of a drainage district, and this language is taken from the statutes providing for a drainage district, that one land owner might own a majority piece of the land in that district to be improved, and if he did, and if he were opposed to this project—and there might be one hundred land owners outside of that who were in favor of it—and that one man, if a non-resident would not be interested in a project, and he could block the whole proposition, but I think it is perfectly fair to say that the majority of those interested in this movement who are land owners and who own one-third of the area to be assessed, that that is

a perfectly fair consideration; at least it is so considered in drainage matters and probably would be in this by the General Assembly.

Mr. FIFER (McLean). The first thing to be done under your proposition would be to file a petition, wouldn't it, that is the first step?

Mr. DUNLAP (Champaign). Yes.

Mr. FIFER (McLean). Suppose in any given district you would get on your petition a majority of those owning one-third of the property in the district, then the improvement could go ahead, couldn't it?

Mr. DUNLAP (Champaign). You would have to have a majority of the land owners.

Mr. FIFER (McLean). Under your proposition, one-third of the property owners could force upon two-thirds an improvement which the two-thirds were opposed to.

Mr. DUNLAP (Champaign). That is possible, but you must recognize in this country we believe in majorities, and I do not believe a large land owner who may happen to own one thousand or ten thousand acres of land, his rights should extend beyond a reasonable limit when it comes to the matter of individuals.

Mr. FIFER (McLean). You state an extreme case, when you say one land owner may own two-thirds or more, and therefore he could block the entire improvement. That is a rather rare instance, isn't it?

Mr. DUNLAP (Champaign). Not so very.

Mr. FIFER (McLean). It would be a hardship on the other hand, generally speaking, you take any large district, the land is pretty evenly divided among the different land owners, and see what would result in that case if one-third of those land owners could force upon two-thirds an improvement which they did not desire.

Mr. DUNLAP (Champaign). Not one-third of the land owners, it would take a majority of the land owners.

Mr. FIFER (McLean). When it comes to a special assessment or improvements in municipalities, in the State, it invariably requires a majority of the land, doesn't it?

Mr. DUNLAP (Champaign). I think it does, a majority of the frontage.

Mr. FIFER (McLean). Do you know of any one thing in Illinois that has been the subject of so much injustice, litigation, and such stirring up of bad blood between neighbors as this question of special assessments in cities?

Mr. DUNLAP (Champaign). I have seen something that is more of a disturbance in the community than that of special assessments in cities, and that is the organization of drainage districts, and I have seen people come to the county court and fight a drainage proposition to the death, they would fight that proposition with all the force and the power and the employment of able lawyers, because they said they were going to be bankrupted by the drainage ditch, but I have seen those same men who were so bitter about it inside of two years, say it was the best thing that ever happened to them that that drainage district was put through.

Mr. FIFER (McLean). You admit my proposition, it has caused that feeling, and this is a kindred question to drainage districts, proceeds along the same general line?

Mr. DUNLAP (Champaign). Except this. This provides that the general public who are to be benefitted are more interested in this in the way of contribution than are the petitioners. The petitioners will be interested perhaps to the extent of ten per cent of the cost, but we know the road improvement is a different proposition from a drainage ditch. The drainage project is for the benefit, and the assessment is made upon the lands of that drainage district only, because the benefits derived from that land, but in the construction of a highway it is different. Ninety percent, if not more, of the travel upon an improved highway in this State is by those who live, not along this highway, but outside of it, and who use it for their convenience, and wear it out. So reaching the conclusion as to the percent that would be levied upon those who live along this road would be governed by the amount of traffic over that as ascertained by the General Assembly before they passed such a law, and that is easily ascertainable.

Mr. FIFER (McLean). You have answered me you would initiate this improvement by a petition, and that two-thirds of those owning the two-thirds of the property to be benefitted is required to sign the petition. Now, who would determine in advance as to who was benefitted and who was not benefitted?

Mr. DUNLAP (Champaign). That would be a legislative matter and ought not to be here in this Constitution.

Mr. FIFER (McLean). Suppose some gentleman of the township or county would include an area that they would say was benefitted by the proposed improvement, and when the man who levied this tax or special assessment, might leave out two-thirds or one-third and say they were not benefitted at all. Then what would become of the petition?

Mr. DUNLAP (Champaign). I would say this, Governor, that in the matter of improvements in a municipality it has been determined how far those improvements should go. The entire city is benefitted by the improvement of one road, but the special assessment does not lie.

Mr. FIFER (McLean). Have you any idea in your mind now as to what kind of law the legislature would pass or could pass to meet the situation that I have described?

• Mr. DUNLAP (Champaign). If I have, it would be only the expression of my personal opinion, and my personal opinion is that the assessment should not go back very far from the road.

Mr. FIFER (McLean). There would be trouble over it, wouldn't there?

Mr. DUNLAP (Champaign). There would be some difficulty in determining that, as all other questions before the General Assembly, but I will say there is a reasonable way, and I have always found it so to determine how far this assessment would go back. How do they determine it in cities? I own some lots in the City of Champaign, and I find when they put a street through they will go to the middle of the block on either side of their special assessment, grading it off, the first block being a certain percentage and so on, to the middle of the block. That seems to have been concluded, so far as municipal questions are concerned.

Mr. WOLFF (Cook). Does this provide where a road runs parallel to county lines, where half is in one county and half is in the other?

Mr. DUNLAP (Champaign). Yes, the legislature will have authority to take care of that proposition where it extends into one or more counties.

Mr. WOLFF (Cook). In many cases a county will pay twenty feet and the other county pays none. Would this take care of that?

Mr. DUNLAP (Champaign). Yes, I think it would.

Mr. FIFER (McLean). Some years ago Illinois inaugurated a principle in regard to the public highways of the State, and from the inauguration of that doctrine, the whole tendency and policy has been to take from the local authorities the control and improvement of the public roads of the State and concentrate it in the officials of the whole State, and in pursuance of that policy surveys have been made all over the State of Illinois with reference to these public highways. Now, the proposition is to get back to the old doctrine. I do not believe that should be done unless we change the whole policy of this State in reference to road improvements. Now, the gentleman's amendment to section thirteen as it originally stands in the proposal, has great merit of a certain kind. It has the merit of originality, and if it has any other, I have not discovered it. It is unique in the history of our State in this, that it extends the powers and the rights that the municipalities of the State now enjoy in regard to special assessments and extends it to all the farm lands of Illinois.

Now, anybody who is familiar with the history of special assessments in our municipalities will understand that there is no question under our law that has resulted in so much bad blood, in stirring up neighbor against neighbor and that has resulted in so many law suits and so much absolute dissatisfaction, and yet we have gotten along. Now, that principle it is proposed to extend to the farm lands of Illinois. You can imagine if it is done, and I think we can all see that some busybody in each particular locality of the State would set everybody by the ears. You see how impossible it is to

apply this principle to farm lands. The proposition was never made before, I doubt if it was ever thought of before. There is some reason growing out possibly of the necessity of the situation, and possibly there are business houses, they are interested in making the road to the store as smooth and as easy as possible in order to attract business. I can well understand that a man living some distance from the proposed improvement under this proposition, living on the road, would pay in proportion to the property he has abutting on the improvement, while a man living just back of him, possibly not to exceed eighty rods, would come out in his private road and would come to the same town and to the same market that the other man would take in reaching, the market or the town where he desired to trade. Now, there is no necessity, the people have taken care of all these questions up to this time, during the one hundred years that the State of Illinois has been a member of the Union, and I can think of nothing that would stir up more strife, more law suits, and would create more bad blood and would result in more positive injury to the farmers of Illinois than this proposition which we are now considering, and I shall vote against it, not only against that, but the original section thirteen.

Mr. LINDLY (Bond). I withdrew my motion to strike out section thirteen at the request of the Chairman for the purpose of the discussion of this question. I do not desire to discuss the beauties of highways in the State and the necessity of them, because we all know the benefits, but we have made some campaigns in this State upon this question, and I believe I have been as enthusiastic for hard roads as the gentleman from Champaign (Dunlap), in the early discussion of this question, when it was first brought up in the legislature, and the committee went to several sections of the State, and in fact all the sections of the State to discuss this question. The first opposition that we found to the hard road law or the organization of the highway commission of the State of Illinois was from the farmers who said that we are not in favor of special assessments upon the lands to build highways in the State of Illinois, and we suggested to them in our talk that that will not be done, it will be done by taxation in the township, in the county and State, but they answered us and said, "whenever you open this door the legislature or somebody will finally put a special assessment upon the lands in the State to build these roads," and we said it is impossible, but here to-day you see the prophecy of those farmers and land owners in the early conception of this enterprise being true. They are now reaching the point of levying special assessments upon the lands of this State to build a highway. They brought up the proposition here of a sixty million dollar bond issue in the State of Illinois, and what did we say in support of this, those of us who took the stump? We said this will be paid for by the automobiles of the State and no farmer will have any special assessment upon his lands for this and the only thing that ever carried it in the State was that proposition. And then another one, when we had the special bond issues for this national highway that runs throughout the State of Illinois, where the counties had to issue bonds for one-third of the cost of the project. What did we say? We said we will issue bonds, and it is raised by general taxes in the county, and we will get the money back, and then the State will put in as much as we have and we will build these highways to connect with the hard roads.

Now, what do you say under this proposition? That you give authority to levy additional assessments against the land, and who does it? It says here that the General Assembly which passed the law; who knows what the area will be, how far back they will run, what the special benefits shall be, only as described by the legislature, and then instead of having the majority of the land in the district, they make it one-third. I do not believe we ought to give to the legislature this authority. I want to say to you gentlemen, to be brief, that I know of nothing that will tend to defeat this Constitution before the people of the State of Illinois so much as for the farmers to understand that we have put into this Constitution this very amendment and give the legislature authority to levy such assessments for the building of roads in this State. I think it will come nearer to defeating the Constitution than anything else, because we have to depend on the rural districts for the

large vote that we will have to have for the adoption of this Constitution. It will take a man to discuss it with every farmer in this State, and you could not explain in a week what the special assessment would that would not reach that farmer and I believe it would be the worst thing to do, to pass a special assessment provision or an article like this.

Mr. WALL (Pulaski). There is a great deal of difference between the doctrine of special assessments as applied to cities and drainage districts and the doctrine sought to be applied here. The Constitution of 1870 gave to the cities, villages, and towns the right to make internal improvements, local improvements by special taxation upon contiguous property, or by special assessment or both, and did not go any further than that. In its wisdom it could see that notwithstanding the doctrine was vicious in that it imposed on special persons an extra burden of tax from the exigencies of the case in certain instances requiring it, in order that those municipalities be built up, and it gave to municipalities the right to perfect local improvements by the two kinds of taxation mentioned. It is sought here to extend not the principle of taxing contiguous property by special taxation, but to extend the principle of special assessment to all the broad area of Illinois, to leave the old cardinal doctrine that was established by the Constitution and go a step farther and say we have got a right to extend this principle to the farm lands of the State.

My conception of special assessments, Mr. Chairman, is probably different from the conception of some of my colleagues here, who may be much better lawyers than I am, but I conceive the doctrines of special assessments are applied to drainage districts and to cities, villages and towns for the reason that when the improvement is finished and completed, it applies substantially and only to the municipality or the drainage district. I cannot conceive, sir, how a special assessment to build public highways, through the rural districts and farms of this State can ever be circumscribed to a point where any particular class of individuals receive substantially all the benefits that is derived from that improvement. A public road of one mile built in Pulaski county or in Peoria county or in Macoupin county is a benefit indirectly, if not directly, to every person in every state that borders on Illinois and to every township and county surrounding either of those counties. That is the difference in principle in applying a special assessment to farm lands and applying them to drainage districts and municipalities. A piece of public road that is built in Massac county, Illinois, is used by the people in Kentucky, by the people of Pope county, Pulaski and Union counties, and so forth. It is an indirect benefit to every human being in the radius of possibly three hundred miles to where it is built. Where are you going to circumscribe and fix the limit of benefits that are necessarily apparent and do exist with reference to that district that you are going to incorporate as a local improvement district for the making of these roads. It is going too far afield. The farmers of this State ought not to be imposed upon by paying a special tax independent of any other persons who may be able to use the improvement, in building public roads. Public roads are lines of travel, over which different localities in the State are open to public use, to everybody in and out of the State.

Now, there is another reason. A drainage district is organized for agricultural, sanitary or mining purposes. Now, there is nobody benefitted by the organization of the drainage district except the persons within the boundaries of that district. If it becomes necessary to drain lands for agricultural purpose, and usually that is what is for, some land that is on the hills is benefitted for sanitary purposes, and that is taken in, and that constitutes all the benefit it is to anybody. It is not so with the public road. It is an entirely different proposition. Another reason is, that a municipality, the distance these improvements extend, the short distance confines the cost directly to the property adjacent. Here is a sewerage system, the system of building up streets, paving streets, and so forth, which is done for the benefit of the municipality itself, and yet it can be said with perfect truth here that every municipality is interested in every public road that leads toward it or from it that may be builded in the State. Here is a farmer who

has one hundred and sixty acres of land. The farmer just west of him is a quarter or a half a mile away from the improvement. The next farm west of him is another half mile away, and so forth. A petition is circulated and in the petition is described the lands that are to be taken into this improved district. Its boundaries are described in the petition and the board of commissioners or some other body authorized by the legislature fixes the amount that Jones shall pay who lives next to the road, and how much Brown is to pay who lives one-half mile away, and what Smith is to pay who lives another half mile away, and so on. Does it not strike this Convention that every person in this district will be interested as to the extent of the assessment? Isn't it true, Mr. Chairman, that with the Federal and State aid roads, all the roads that have been built in this State for the last ten years and are continuing to be built, together with the liberality of the people in the various townships will in a short time establish a system of public roads in Illinois that is based upon equality of taxes and will satisfy everybody without our taking this radical departure? Now, it is true this might permit the building of roads in some particular locality, but I think as a whole it will retard the building of public highways, the adoption of this section will wonderfully retard the building of public highways. Who is going to raise the balance of the money after the local improvement district shall pay twenty per cent? Every man against whom that twenty per cent is levied will fight in order to escape his special assessment. Every man will rise up and say that the roads are for everybody, for the school children that go to the little red school house four, five or ten miles away. Every man will say he has always paid his proportion to build the roads and he does not want to pay any more. Is it safe to say that we could keep out of litigation in such case as this? It is well known that lawyers are preparing themselves to be special assessment lawyers, others are preparing themselves to be drainage lawyers because of the immense amount of confusion and litigation and disruption, as was mentioned, to localities and to neighbors growing out of a difference of opinion with reference to these assessments, and law suits are on the calendars of the different counties of the State involving these questions. Would not this happen if we assessed these farmers by special assessment?

Gentlemen, outside of the City of Chicago and outside of the County of Cook, the farmers pay over three-fourths of the taxes of the State already. Here is a man who may live in this local improvement district who has forty acres of land, and he is assessed more than the man who lives twenty miles away, although that man may haul twenty loads of grain where the other man only hauls one. He gets the benefit of that improvement, just the same. The man who lives in the City of Cairo and who comes through the County of Pulaski, has the use of the road and makes more out of it financially, possibly, than the fellow who lives on the road, so the question of special assessments with reference to public highways is an entirely different question both in principle and practice than the question of special assessments upon municipal or drainage property. I am opposed to the substitute, Mr. Chairman, and to the section itself.

Mr. CORLETT (Will). I will take it that it was the purpose of the committee simply to give in very general terms authority to the General Assembly to deal with the many problems in connection with road building which today in Illinois has only started. I am rather inclined to favor the provision of the committee report, rather than the substitute offered as an amendment, for the reason that in the substitute there is an attempt undoubtedly for the purpose of showing that there can be no undue advantage taken of property owners to go into the detail which, in my opinion is more particularly a matter of legislation. Now, it has been argued that the roads are for all and that we should all contribute to the construction and the maintenance of them. I agree Mr. Chairman, and gentlemen of this committee, that as a general proposition the building of roads should be by general taxation. I would not vote for the report of the committee if I thought that any General Assembly in the future would impose upon abutting land owners the entire burden, or even

a very substantial part of the cost of building and maintaining the road. It is true as has been stated here, that the building of a road is a benefit to all, that it is used by all, but Mr. Chairman and gentlemen of this committee, it is also a special benefit to the property along which it is constructed, and for evidence of that fact you have only got to look to the example of the scrambling that is now going on in every locality where there is a mile of road to be built. Every man in a township or in that locality insists that the road be built by his farm or by his door. I just want to say very briefly that there is a well recognized benefit to the man along whose property it is built. It has been argued here that because the roads are used by all that they should be paid for by all. Why, the street that is built past my house in the City of Joliet, I paid for it and it is used by everybody, paid for it entirely. The streets are built by special assessment in the larger cities, and they are used by all. I would not be in favor of this proposition if it intended or contemplated that the burden or even a large part of the burden of building a road was to be placed on the owner of property adjoining, but I do favor enough of a special tax or special assessment so that the man who gets that road will pay somewhere near what it benefits him over and above what it benefits the people generally. Now, Mr. Chairman and gentlemen, I want to say this one thing. I know of a township in my county where they levied a tax sufficient to build a mile of hard road, and there is a scramble in that township or has been for the mile of road. The men on the north side of town want it over there, and in the other parts, they want it there, and they have settled those questions in that township working in this way, for the last twenty years, by calling all the people of their township at some convenient place, and the commissioners saying to them, "we have enough money to build a mile of road, and the community that will voluntarily subscribe the most money for the construction of more than a mile of road, will be the community where we think the road will do the most good and serve the greatest number of people," and in that way they have oftentimes raised by voluntarily subscription enough money to build more than two miles of road, and in that way they have nearly all the roads of their township hard-surfaced, and so gentlemen, this is the power that we should give to the legislature in my opinion, to be exercised under such safeguards and wise regulations as experience in the future will demonstrate will serve the best.

Mr. MACK (Hancock). I think it is right that I should express to this Convention the situation in the thirty-second district. It is my belief, Mr. Chairman, and I think I know the feeling of the people in the thirty-second district, one hundred thousand people, and I believe if there is anything in the world that will bring them out on election day it will be to place this in the Constitution, and I am very thoroughly satisfied they will come out on that day beginning at seven o'clock and keep at it all day with their friends and neighbors, to see that this does not become a part of the Constitution of the State of Illinois. As to that, sir, I have no question, whatever. (Applause). In regard to this matter, Mr. Chairman, I have already said to my honored friend from Cook county who wishes to close the gate, that I wanted to get a word in before that gate was shut, and I promised to be brief, but I must suggest to this Convention two ideas that have not yet been dwelt upon, even the honored member from McLean county did not cover this proposition. This is a very radical departure from everything that has been inserted in any Constitution before. When you come to transplant methods used in the great City of Chicago down in the wheat and oats fields where the cattle roam and the hogs are fed morning, noon and night, you are in my opinion starting on a dangerous campaign among the farmers. It won't do, Mr. Chairman. If you want a measure as radical as this, get the best legal talent of this Convention, if you have not done so, and have it consider every word and every syllable of this proposal, because it is a radical departure, it is revolutionary, sir, and it ought not to be put in unless it is gone into with great care and caution. I have tried to sustain the report of your committee, but with due respect to what you have done I am compelled on this occasion to differ with you.

One more point and then I am through. This Convention has not yet started and should now stop to consider one point, which I think is the point of this whole matter, and I have not heard that point yet raised, and that is this, that in comparison with the price of these highways, forty-three thousand dollars a mile, the value of property and the value of the income from that property, gentlemen, would be mighty small in comparison with the awful expense put upon this property. The honored gentleman from Champaign county will later on, as I understand, bring into this Convention a provision which will be carefully considered, and that is a provision in this time when the world is wondering whether it will be fed or starved, a measure which will ask that the great State of Illinois go into the banking business for the purpose of determining as to whether money can be loaned to the farmers. When you reach that, sir, and shall carefully consider it, and do what you think is for the best interests of the State, for that is what you are doing, with one hand you are reaching out and loaning money to carry on a business so that the fields may not lay idle, and the stock go unfed, and with the other hand binding that industry and sending it to ruin by putting on those sections down yonder where a mile of road would cost from ten to twenty thousand dollars. It is impossible, Mr. Chairman, and I ask the members of this Convention from every part of Illinois before you take a step as radical as this, to stop and consider as to whether or not if those two measures stood side by side, and the honored gentleman from Champaign county (Dunlap) is not taking a position that is inconsistent in these times. Hence, I am compelled to say, gentlemen, on behalf of the thirty-second district that I am glad, sir, with the venerable and honored member from McLean county to join hands with him and say it is radical and it is revolutionary, and coming from the thirty-second district, from the broad corn fields of Illinois, the richest lands on earth, I will say that the people down there are against it and will vote against it and will beat the Constitution if it is in it.

Mr. DAVIS (Cook). I move that the debate be closed after the gentleman from Champaign is given an opportunity to make the closing argument.

Mr. DUNLAP (Champaign). We have heard from a number of lawyers in the Convention. May be one or two of the farmers would like to speak on this question.

Mr. SCANLAN (LaSalle). I want to offer an amendment to the substitute, as follows: "The General Assembly shall have authority to enact laws providing for the construction and improvement of public roads and highways in part by special assessments, to be levied upon the property benefited by such construction and improvement, whether such construction and improvement lie entirely within one township or county or two or more townships or counties; provided that such laws shall contain provisions that all such construction and improvement shall be initiated by a petition signed by a majority of the owners of the lands to be subjected to such proposed special assessment, who shall be the owners of not less than one-third in area of the said lands."

Mr. DUNLAP (Champaign). I have scrutinized this substitute offered by the gentleman from LaSalle, and it has been submitted to a number of eminent attorneys of this Convention, and I believe it is an improvement upon the language, and I accept that as a substitute for the original proposition.

Mr. FIFER (McLean). If the delegate from Champaign will add a proviso to the amendment which he now offers, that the legislature shall provide by law for assessing the property owners adjacent to the proposed road, there are forty-eight hundred miles of them, assess them, it is not too late, and paying the money into the treasury of the State to become a part of the road fund of the State, would you object to that?

Mr. DUNLAP (Champaign). I certainly would.

Mr. FIFER (McLean). Why?

Mr. DUNLAP (Champaign). I would object to it, because this proposition is to take care of local conditions and does not pertain to the State sys-

tem of highways, but to connect up the local community with the State system, and therefore is a local matter.

Mr. JARMAN (Schuyler). This report is made by a committee of which I am a member. Nothing has been said as yet from the standpoint of the members of this committee, and I simply want to make a few statements with reference to the situation as it appears to the committee. I have not kept a very accurate record, but I think it has been stated in this Convention sixty-two times that if certain propositions were put into the Constitution, the Constitution would be defeated. Now, I do not think that is a controlling influence with reference to the establishment of a principle that ought or ought not to obtain. This proposal as introduced by the committee, was under consideration, and they had also under consideration the different propositions, the one from Mr. Dunlap and others, of different phraseology, and meaning and provision and they adopted one or two other than the present one tentatively, but finally it resolved itself into this simple proposition which to my mind is the only proposition that ought to be adopted by this Convention, from the standpoint of the committee. We also consulted with the highway department of the State. Now, in considering this proposition at least the committee took that standpoint, that they must give credit to the legislature and to the county and to the township, for some common sense in the application of this proposition. If they have not any common sense about it and are reckless about it, of course the result that the honored member from McLean (Fifer) talked about, will follow, but if they have any common sense and know the conditions and the farming conditions it would seem to us it would be easy of application.

Now, there are two propositions involved here, and one is whether or not you want to build any roads by such special assessment in part payment of the cost of the road, and the other proposition is, how will you do it? Now, addressing myself to the latter part of it, it was thought by the committee to leave that to the legislature, to the counties, and to the townships. If you burden this matter with a great deal of detail here you will have trouble in the future. The road conditions in this State are new. They are not as new in other states. This is not a new proposition in other states. I consulted some of the statutes with reference to other states. They have a great system of hard roads in California. They have in part this same thing. The state builds these main highways from San Francisco to San Diego, they build them out in other directions, and then another character of roads by the township and the state, and sometimes the cities join in building that character of roads. In roads of other character, the township and the owner of the land join in building; the roads of the county are not of the same character and cannot be treated alike. The same is true of the State of Maryland, and that policy is followed. They have a law there that they call the Shoemaker Law, which permits the county and the State and the township and the owners of the lands to join together in building these roads through a legal process by which the owners of the land are able to pay a part of the road. You cannot enforce any road improvement along that line unless you make it possible to force the payment of assessment by law. We have been cited to municipalities and drainage districts. Would anybody contend for the repeal of the law with reference to municipalities or drainage districts, notwithstanding all the trouble and litigation brought about. No, because the ultimate result is for the benefit of the people, and the parties concerned. This law does not compel and does not suppose that any legislature or county or township would compel the owner of the land to pay forty-three thousand dollars, the cost of the hard road. It is presumed they would take the sensible view of it. There are characters of roads that the county or State ought to build alone. There are characters of roads that the State ought to build. Why? Because the great mass of the people use those roads. In any event, in order to inaugurate this road system, the State must aid, right or wrong, or we will not get them. In order to get the building of the road, it is brought about usually by a few people in the community, and not by the public in general. The owners of the land want it done, and they are situated so they do not expect the public to pay the whole

cost of the road. Here is a man with one hundred sixty acres of valuable land along the highway. It is the State highway. It is along the Lincoln Highway. It is worth four of five hundred dollars an acre, and we have a man to the west of him owning one hundred sixty acres of land, of valuable land, he is within a mile of that public highway. Other people own lands west of him. It is simply a branch road and the State should not pay the expense of that road. It is of special benefit to him, but at the same time he gets the benefit with the public of this main road. The man having this one hundred sixty acres of land on the main road, is perfectly satisfied. He has got his road, but these men living to the west, who want to get to the public road, how are they going to do it? The man living on the public highway would not care to pay anything because it is not of any benefit to him, especially to where he lives, but a benefit to his farm, but not to his convenience. The people back of him have to pay for the road that goes to the north and south of this land, and valuable land at that, and they cannot get it unless in some way the law would make him pay the special assessment with reference to the benefits of that land. Numerous conditions like that arise, and I do not believe when the farmers understand this proposition that they will be against it.

The language of this proposition is about the same language of the provision of the Constitution, with reference to vesting in municipalities and cities the power to make special assessments. It is necessary in the Constitution if you are going to apply the principle of special assessments to hard roads, because as every lawyer knows unless you have such a provision in the Constitution it cannot be done. Following the proposition with reference to cities, we have a practice and the construction of the language of that proposition for fifty years, so what is the use of going into another kind of proposition that does not accomplish any more and not as much to my mind, and not have the benefit of the construction of the wording and the language of this old proposition in order to benefit us, in benefitting the State and counties in executing that proposition? Now, the proposition with reference to municipalities; the courts have decided time and time again that you do not have put all the costs of the road in the public improvement, but you can raise any part of the costs by general taxation.

Now, to my mind, what would be the practical application of this in a branch road where this principle would be applied? It would be that the county by taxation would pay a certain proportion of the cost of the road, the township another portion and the landlord would pay another portion of it to the extent it was especially beneficial. The rule is not arbitrary. Necessarily you would have to have the jury determine how much benefit that road was to that land, and then they would take up the question of how much benefit that road was to the county and to the township, and in any event under the adjudication of a jury of his peers, probably of his own township and county, would pass upon every question as to whether or not he is benefitted to that extent. If he has got the verdict of a jury, what is the harm of his paying that money? That is all it amounts to, and this detail should not be in the Constitution, should be cut out, and this substitute should be fought down and the original one passed.

Mr. WARREN (DeKalb). I do not like to attempt to enter into an argument of this kind at this time, because I do not feel that I have the ability to discuss the question in the manner it has been discussed by the other distinguished delegates. I wonder if we are not drawing considerably on our imagination. We are imagining a great many things that would happen, and I want to make a few statements in regard to this from a practical standpoint. As you are all aware, there is being constructed throughout the State of Illinois three kinds of roads, known as federal, bond issue and county aid. At the present time the roads being constructed are all country roads. The bond issue roads upon which we voted to construct, very little is being done for the reason of the cost and the difficulty in getting material. These roads were drawn from city to city, and every farmer living anywhere near between those cities felt that the road would be constructed by his farm. This has led to a great controversy. We find in every township and county

that when a road is going to be built they are contending to get those roads past their farms or through their own neighborhoods. What is the reason? Why, because they are getting some benefits that the others do not get who do not live upon the road. Now, in regard to those roads there are communities that the farmers situated quite a distance from there and they can pay a part, say ten or twenty percent in order to get that built, and if it is properly safeguarded, I can see no harm in it. This is one of the things this State needs, roads. Transportation is becoming more serious and trucks are coming to take the place of horses, and we all know if we have a good road leading to some industrial center that gives us good transportation it improves the value of the farm, and I see nothing wrong myself in paying ten or twenty percent on the road, providing I am getting an equal benefit, and every man knows if he has a hard road constructed by his farm it increases the value of his farm from ten to twenty-five dollars an acre.

Now, it is suggested why do we not contribute to the assessment of the road, the people along the road? It was felt at that time that we could not have gotten this system of roads built had we had an assessment. There would have been too much opposition to it, and it is true there will be considerable opposition to this movement, but considered from every standpoint I think it is on the square. I do not believe because our rural districts are owned by land owners who live a distance from that road, that they should oppose our roads and prohibit us from getting them. I am speaking upon this because I believe myself I would be willing to pay my share if I could get a road built past my land.

Mr. FIFER (McLean). Are you on one of these thoroughfares?

Mr. WARREN (DeKalb). No, sir.

Mr. FIFER (McLean). How close are you?

Mr. WARREN (DeKalb). I am living on one of the roads that there might be a possibility of passing my place.

Mr. FIFER (McLean). Your land is on one of the proposed main roads?

Mr. WARREN (DeKalb). No, not at all, it has not been located.

Mr. FIFER (McLean). You expect to get one by your farm?

Mr. WARREN (DeKalb). If it is possible to do so. I have other property that will not get the road, and I would be willing to contribute my share of the expense to build a road leading up to this hard road.

Mr. PARKER (Saline). The survey of the State Aid road has been located along land I own, but I do not know whether we will be able to get it or not. I expect it will be some years. Now, I do not think that we should be hindered in any way from building these roads now if we are willing to pay part of the costs. So far as I am concerned, I think we should be allowed to be assessed according to the benefits we get, as in the drainage propositions. As to this thing being revolutionary, I can see nothing revolutionary in it. It is the same identical thing that we have in the drainage propositions. I hope sincerely that the delegates will see fit to let us vote ourselves out of the mud.

Mr. RINAHER (Macoupin). I have not any land on any hard road, I am sorry to say. I have a little land that is a mile and a half from the hard road. I make this statement so I may be sized up by some of the objectors to the proposition. I am not influenced in the slightest degree in the position I take in this matter by any personal interest, and I think personal interest should not influence anybody in the discussion of such a question as this. There is a necessity for some method of extending the hard road or public roads of some kind to the property that does not now get the benefit of the system being constructed in this State. I do not know any way by which they can get that benefit unless it be by some system of co-operation, including the plan that is found necessary to make all the municipal improvements in this State. That is to say, by special assessment of the benefits received by the particular property. The proposition as reported in the committee's report is objectionable, it seems to me, in that it directly authorizes a special taxation of the contiguous property, always a more severe and harsh method of distributing the cost of an improvement than that made by special assessments. It seems to me if you are going to adopt the plan of co-

operation in the construction of these improvements, which I suggest is necessary, it should be along the line of least resistance. It should be a method that will impose the least hardship upon the property owners who contribute to it and may not do so willingly, and that would be by the plan of special assessments of benefits, so that other property contiguous to the highway should contribute its reasonable proportion to the cost of that improvement. So far as any individual hardship is concerned, it seems to me that the juries can be left to protect the property owner in that position. I favor the substitute offered by the delegate from LaSalle (Scanlan).

Mr. GEE (Lawrence). It is with considerable diffidence I arise to make a few remarks on this proposition, in view of the fact I have heard very strong reasons given against this substitute by gentlemen whose opinion at all times commands my respect. I dislike very much to be in opposition to the principles which they announce to this Convention, but I think that the committee have evolved a principle that ought to be adopted in some way by this Convention. I have not heard a word from any man in opposition to this substitute on section thirteen who is against the proposition of having good roads in the State of Illinois. Now those do not come from wishing or asking. They must come from some active force in some way. Recently in the history of the State of Illinois, a large majority of the entire electorate went on record in favor of the road proposition, but that is not all that the people of Illinois need. We need to connect up from the homesteads of the farmers so they can utilize these great highways when they are completed, and this proposition to be put into our Constitution is a forward-looking proposition that as men of Illinois we cannot afford to turn down. (Applause). Once in a while I like to drive up to the windy City of Chicago, and when I do I have to travel through the state of Indiana to get there. My Indiana friends ask me why I go through Indiana and I have to tell them because I cannot go through my own State, and I am hoping, as old as I am, that some day these improvements will be perfected that I may go through my own State.

I am as concerned about protecting property rights as any man in this Convention. I meet the tax payer as willingly as any man in this Convention, but I want to lay aside all human selfishness and take a look forward and have my eyes in the front and not in the back of my head. This substitute carefully guards the interest of the land owners. You cannot get these roads without a petition signed by a majority of the land owners. I am willing to go wherever the majority of my people lead on roads, or any other question.

We are confronted with a proposition that is not entirely foreign to application now, and that is to have contented tenants living on the farms. We are living in an age of electricity, and in our villages, cities and towns, every evening when the roads will permit, the tenant and the farmer, his wife and children can go to town, can take in a movie, and go home again, and feel much better and rested and ready to begin the next day's work. There is coming a time when we will not have very much trouble with the farmers. They stood fast for good hard roads, and the present statute provides for them. They did not kick out of the traces for anything that improved the condition of mankind, and they will not do it now. I am not thinking of the man who lives in town and owns a great bunch of land outside, careless of the convenience, comforts, likes and dislikes of this tenant who lives on the farm. I am thinking of that man out six miles from town who wants to come in quickly and to get back home after his work is done, to save time if he breaks his machine down and has to go to town and have it repaired. I have recollection of the time when I was living in the country in the month of March when it took me four hours with a horse and buggy to get six miles on the most despicable road that I ever travelled. Something ought to be done. It can be done. I am willing to trust the legislature. We hear it time and again we cannot trust the legislature. We have members of the legislature in this Convention. They are as fair as anybody, and they cannot hurt anybody because this proposition would have to be initiated by the people who own the land. I hope the time will come when property will be

owned by people who will not turn their back on progress, but will look ahead all the time. I want to make an appeal to the people of Cook county to support this substitute. We in southern Illinois want it, for without any constitutional provision without any statute like this, we have built roads of gravel from our own gravel pits, and put ourselves on the move, but we want to have it so that we can go to McLean county, Peoria county, or any other county on a good road, and the time is ripe to put the provision in so the legislative body can let the majority rule.

Mr. JOHNSON (Henry). I am in favor of this substitute, allowing farmers to build roads. I come from a county that voted something like fifty-six hundred in favor of the State hard road system, and less than one thousand voted against it, notwithstanding the fact we are one of the three or four counties in the State of Illinois that does not have a hard road built to its county seat; notwithstanding that, I come from a county that is in favor of good roads and hard roads. In my own city we have been pioneers in the matter of good roads. We had an organization, a good roads organization, years ago before the hard roads were dreamed of. We are now in favor of hard roads, and contrary to the statements that have been made on this floor, that this substitute and this section is for the purpose of forcing the farmers to contribute to the payment of hard roads, it is to give the farmers the privilege of building roads when they please. My county is in favor of hard roads, I think my district is in favor of hard roads. In proof of that statement I wish to say that before the hard road proposition was presented to the voters, my county built several miles of hard road. The County of Bureau also built several miles of hard road, and we have these hard roads today. The farmers are anxious to connect up their farms with the main highways as provided in this State-wide system of hard roads. I wish to say this, that we seem to be of the opinion that what we are doing now is to legislate for next year, whether or not we shall have hard roads built partly by special assessment. The situation as I see it is we will empower the legislature if it sees fit sometime within the next fifty years to authorize the construction of roads in addition to the State-wide system as provided in bond issue which was voted by the people in the fall of 1918. The argument has been made that because this State-wide system of hard roads goes by a man's farm without costing him anything, that it would be an injustice to him to have to pay a portion of any other road so he could connect up with that. Contrary to that statement I think it is a privilege we should accord to the farmers of Illinois so that when they wish to build these roads they can do so. I hope that this committee will vote in favor of the proposition, because I think it is something that the farming community desires and that the farming communities ought to have, and I believe it to be a benefit to the entire State and something we will all be proud of.

Mr. MIGHELL (Kane). I move that debate be closed.

(Motion prevailed.)

CHAIRMAN SMITH. The question is on the adoption of the substitute. (Substitute adopted.)

Mr. DUNLAP (Champaign). I move the adoption of the section as amended.

Mr. DOVE (Shelby). I have an amendment to the substitute, strike out the words "in part" and insert after the last word the following: "Provided, that no more than twenty per cent of the total cost of the improvement shall be levied upon the property benefitted." The purpose of that is to overcome the uncertainty of the word "in part." To my mind that is the most dangerous provision of this section. There was no unanimity in the committee as to how this section should be provided, and the only purpose of this amendment is to provide that the legislature could not confer upon the county authorities any power to assess lands specially benefitted to the extent greater than twenty per cent of the cost of the improvement.

Mr. DUNLAP (Champaign). The objection to that is, it is going still further into legislative matters, and in my opinion that can as safely be left to the General Assembly to determine as it can to this Convention. Personally, I do not believe that that will amount to over ten percent, and I have no objection to the amendment except that I think it is unnecessary.

Mr. DOVE (Shelby). What the gentleman says is true, there can be no harm to limiting the legislature to making it twenty per cent.

Mr. LINDLY (Bond). I think it will be safer to put in the Constitution to take the gentleman's word for ten per cent.

Mr. KERRICK (McLean). I move to strike out the figure twenty and make it ten.

Mr. RINAHER (Macoupon). It seems to me an amendment of this kind would have the effect of practically destroying the clause. You are not legislating for a year or two, or a single session or between sessions of the legislature, but you are fixing it for an indefinite term, and there ought not to be such restriction, it seems to me. It ought to be left to the General Assembly and not attempt to be limited in the Constitution. You have got to trust the General Assembly somewhere and sometime. We have established a principle of that rate, whatever it may be, that shall be fixed by the General Assembly, and is subject to change every two years, so if they put it too high the next legislature will change it; if they put it too low the next legislature will raise it, and that is a matter that ought to be left to the legislature purely in my opinion.

CHAIRMAN SMITH. The question is on the amendment of the delegate from McLean to insert the word "ten" instead of "twenty."

(Amendment lost.)

CHAIRMAN SMITH. The question recurs on the amendment of the delegate from Shelby in placing the limit of twenty per cent.

(Amendment lost.)

Mr. GREEN (Champaign). I desire to offer the following amendment to this section as proposed in the substitute proposal. Insert the word "proposed" after the word "land" in the third line from the bottom, so it would read "that all such improvements shall be initiated by a petition signed by a majority of the owners of the lands proposed to be subjected to such special assessment, who shall be the owners of not less than one-third in area of the said lands." I offer that so it can be made definite.

Mr. DUNLAP (Champaign). I accept the amendment as offered with the consent of the house.

CHAIRMAN SMITH. The question is on the amendment of the delegate from Champaign, Mr. Green.

(Amendment adopted.)

Mr. CARLSTROM (Mercer). This substitute has been amended so much I do not know whether this is in order or not, but I move to amend the substitute for section thirteen as now amended, by striking out in the third line the words "in part."

Mr. DUNLAP (Champaign). May I suggest to the delegate that the words "in part" are in the committee's section.

Mr. CARLSTROM (Mercer). I don't care where they are. Nobody in Illinois believes in good roads any more than I do, but we have launched ourselves forth in a gigantic scheme in Illinois that will involve in an extraordinary way the finances of Illinois for a number of years. In this Convention we seem to be proceeding without any thought of the financial future of Illinois. On two or three occasions we have talked about twenty million dollars, and a two million dollar annual burden on the State of Illinois as though it were twenty cents. The farms are burdened heavily and they are struggling now to meet the demands placed on them. The friend of the farmers of Illinois will pause before he places a weapon in the hands of any one to add to these burdens, and I think it is a serious question in Illinois today notwithstanding what I may be criticized for saying for the sixty-third time that people will vote against the Constitution. I say to you this will endanger the Constitution. If it is submitted as advocated by the delegate in the first instance, merely to grant to the legislature the authority to enable men voluntarily to assess themselves to build connecting links, well and good.

CHAIRMAN SMITH. The question now is on the amendment of the gentleman from Mercer (Carlstrom) striking out "in part."

(Amendment lost.)

CHAIRMAN SMITH. The question now recurs on the adoption of the substitute for section thirteen as amended.

(Section adopted, 38 to 20.)

Mr. JARMAN (Schuyler). I move the adoption of Proposal 362 as amended.

Mr. GILBERT (Jefferson). On the motion yesterday afternoon to strike out section twelve of the proposal as reported from the committee, which embraces in part section eight of the article on revenue. There was coupled with that proposition a special tax for road purposes, but it was stricken out.

CHAIRMAN SMITH. There is a motion pending to adopt the article.

Mr. GILBERT (Jefferson). I thought the gentleman yielded.

Mr. TRAUTMANN (St. Clair). I understand the delegate's motion was to substitute section eight of the present revenue article for section twelve of the proposal. If he wants to make any changes in section twelve he will have to move to reconsider.

Mr. GILBERT (Jefferson). I move a reconsideration of the action of the committee on yesterday in striking out section twelve.

Mr. SUTHERLAND (Cook). As the mover of the original motion, I would like to make a brief statement. I tried to make it clear yesterday that my purpose in making the motion to strike out section twelve was to secure for the advice of the Revenue Committee the views of this Convention as to whether or not they thought it was necessary to put into the Constitution a limitation on the tax rate of counties when there is not such a constitutional limitation upon the tax rate of any other taxing body in the State, which in the aggregate, levy far greater taxes than do the counties, and it seems to me desirable that we should see whether or not we want such a limitation in the Constitution. I take it that the delegates understand that the limitation on counties as the limitations upon the other taxing bodies, are now contained in the statutes and would continue as statutory limitations in the same form as they are today until otherwise changed. I simply wanted to make it clear that the county is the only tax levying body that is now limited by constitutional provisions. If it is desirable to continue that limitation, then the Revenue Committee would like to know the opinion of the Convention. The opinion of the Revenue Committee has been expressed that it is not desirable, and on the question of expediency, we came to this conclusion. It is true that some attack may be made upon the Constitution on the ground we are taking out a constitutional limitation. That will not be a true attack, because the limitation remains in the statute and will continue to be in force. On the other hand if we put in this provision and say that county authorities shall not levy a tax in excess of seventy-five cents per one hundred dollars valuation unless authorized by a vote of the people of the county, which is the present provision, and then go ahead and add, "Provided, county authorities may assess an additional tax not exceeding seventy-five cents on the one hundred dollars valuation, any one who wants to find fault with the Constitution can say, "why put that in the Constitution itself." It is simply a question of policy as to whether we want to limit one taxing body, namely, the county, in the Constitution, and limit the other taxing bodies only by statute. The question now is whether or not we voted understandingly on that proposition yesterday. Those who misunderstood, and did not understand that that vote was to advise the Revenue Committee to drop out the subject altogether from the Constitution will vote for a reconsideration.

Mr. WALL (Pulaski). I am very much in favor of this motion to reconsider because it seems to me we ought to place in the Constitution a limitation upon the right of a county to tax. The main reason for that is, if you raise this amount, or if you leave it unlimited, it will amount to confiscation. There is a tendency to extravagance, a tendency to tax without limit and to assess exorbitant taxes, that tendency is quite prevalent, and there ought to be some safeguard thrown about this matter, and I think it would

be the part of wisdom to test the feelings of the delegates on that question as a matter of advice to the Revenue Committee insofar as going into this particular article is concerned, so by some means there may be put in somewhere a limit upon the rights to tax the county.

Mr. JARMAN (Schuyler). I move that the committee take a recess until 2:30 o'clock.

(Motion prevailed.)

Whereupon a recess was taken by the Convention to Thursday, May 20, A. D. 1920, to 2:30 o'clock p. m.

2:30 O'CLOCK P. M.

The Convention met pursuant to recess.

(Chairman Smith presiding.)

CHAIRMAN SMITH. The committee will please come to order. The question is the motion of the delegate from Jefferson to reconsider section twelve.

Mr. SUTHERLAND (Cook). In order to permit a fair test of sentiment on this question with no misunderstanding I will support the motion to reconsider and call off the question.

(Motion prevailed.)

CHAIRMAN SMITH. The question then recurs on the motion of the delegate from Cook, Mr. Sutherland, to strike out section twelve.

Mr. SUTHERLAND (Cook). With the unanimous consent of the committee, I would like to withdraw that motion and substitute a motion which will more clearly test the sentiment of the Convention on this question, and that is this: "Resolved, that it be the sense of this committee that there be no constitutional limitation but only a statutory limitation upon the tax rate to be levied by counties."

Mr. JARMAN (Schuyler). I rise to a point of order. That motion is not in order.

Mr. SUTHERLAND (Cook). I have tried not to be technical. I supported the motion of the delegate from Jefferson (Gilbert) to reconsider with that in mind. We are anxious to know what the sentiment of the delegates is in response to this question. As it is section twelve there is some confusion. I hope that the delegate from Schuyler will not insist on the point of order, because I think we can make better progress by simply voting to get sentiment of the Convention on this question.

Mr. JARMAN (Schuyler). We cannot get that test without a motion to adopt section twelve. Therefore, I move the adoption of section twelve.

CHAIRMAN SMITH. The Chair would suggest to the delegate from Schuyler this motion put by the delegate from Cook, Mr. Sutherland, would obtain the sentiment of the committee and thereby enlighten them in testing their vote in adopting section twelve.

Mr. TAFF (Fulton). Why would not the same object be obtained if the motion of the delegate from Schuyler would prevail, and then a motion made to divide the question?

CHAIRMAN SMITH. The same motion was put yesterday with the same explanation and still some of the gentlemen of the committee seemed not to understand. They thought they were not voting directly on one simple question. However, if the delegate from Schuyler persists I will put his motion.

Mr. TAFF (Fulton). I move the question be divided.

Mr. NICHOLS (Ogle). I am in favor of the motion of the gentleman from Cook, whether or not there should be any limitation on the county. This fixes the limit of seventy-five cents, and the question is whether there will be any. I think that will be a fair test on the proposition.

CHAIRMAN SMITH. The Chair thinks that that is a simple way to get at it. I would like to have the consent of the delegate from Schuyler to put it before the committee.

Mr. JARMAN (Schuyler). I would be glad to accede to the request, but it is contrary to my idea of the proper procedure. The same thing can be accomplished by voting on the proposition that is before the Convention.

CHAIRMAN SMITH. The question then is on the motion of the delegate from Schuyler that section twelve be adopted.

Mr. GALE (Knox). I desire to call the attention of this Convention to the wording of section twelve: "County authorities shall never assess taxes the aggregate of which shall exceed seventy-five cents per one hundred dollars valuation, unless authorized by a vote of the people of the county." Now, that is the wording of the present section of the Revenue Article. That has been held to mean that if any year the county authorities are to levy more than seventy-five cents the matter shall be submitted to a vote of the people. That it must be submitted in each year, in which it is desired to levy a larger tax. That a tax cannot be authorized for more than a year, I take it in excess of that seventy-five cents, and it seems to me, Mr. Chairman, that that is a limitation which in the past has worked well; a limitation to which our people have become used and which most of the people I believe want to see retained. Now, at the present time, Mr. Chairman, the words "the road authorities or the authorities of the town." It is true that a town in certain contingencies may secure aid from the county, but in the matter of building bridges the cost of which exceeds a certain sum, section twelve then goes on and says, "Provided, the county authorities may assess an additional tax, not exceeding seventy-five cents on the one hundred dollars valuation for the construction, improvement and maintenance of the public highways." The section doubles the power of the county to tax in certain instances, but it still leaves the power in the road districts in the towns to levy their sixty-one cents per one hundred dollars each year, and in the case of hard roads to levy also an additional one dollar tax. If this was all coupled together we have the possibility of one dollar sixty-one cents plus seventy-five cents, two dollars thirty-six cents by the county and town authorities for roads, which it seems to me might result in many instances in a most outrageous tax, a tax pretty nearly unbearable. That tax would be spread over the entire county for the seventy-five cents and the one dollar sixty-one cents on each town, in addition, or might be so spread in addition. You would then have a situation which is likely to arise on the adoption of section thirteen for the improvement of roads by special assessments, which I take it actually means hard roads in the districts where there is a petition, and so forth. You will get these special assessments to pay for those roads in part, but it has not been told to this Convention how the other part is to be raised. Is it by the county authority? Very well, here is seventy-five cents valuation to enable you to do it, and the valuation by the town authorities; there is no limitation in the Constitution and the statute now authorizing them to levy one dollar sixty-one cents, sixty-one cents regular and one dollar under certain instances for hard roads, with the adoption of section thirteen. The adoption of section twelve, as we have it now, does not mean the possibility of the levy of the two dollars thirty-six cents, but it means the certainty of that levy within a very short time. It seems to me that this section is one that must be retained, the first clause, but as to the second clause I am opposed. At the same time I can see the need of making the county the unit for road districts instead of the town, and if that is done there must be the additional right on the part of the county to assess the taxes.

Therefore, Mr. Chairman, I want to introduce the following amendment as a substitute for section twelve. This would leave the first clause as it is, but it would change the second clause to read as follows: "But if the General Assembly shall provide the county shall be the unit for the levying and collection of taxes for road and bridge purposes, then county authorities may assess an additional tax for the construction, improvement and maintenance of public highways and bridges, which additional tax shall not exceed seventy-five cents for one hundred dollars valuation unless authorized by a vote of the people of the county". It seems to me, Mr. Chairman, that this section twelve ought not to be in at all, but if you are to have section

thirteen in, as we have all voted to do, that some limitation of this kind is a necessity for the protection of the people of the State of Illinois, and I therefore offer what I have read as a substitute for section twelve.

Mr. JARMAN (Schuyler. If I understand the situation with reference to this substitute, it is this: It provides for a limitation first as now in the Constitution for seventy-five cents for general county purposes with the provision of increasing that by a vote of the people; it also provides that the county is made a unit in the matter of highways. Then the tax for that purpose shall be limited to seventy-five cents, and can be increased by a vote of the people. Now, then, suppose the county is not made the unit of highways and we want to build highways and suppose we want to construct a highway under which the county will contribute part and the township contribute part and the property owner will contribute part. Then we have the situation that under the substitute we cannot carry out, because the power to fix taxes will be taken from the township, and I do not think we want that kind of a condition. It is true that under the hard road law and under the general law with reference to townships, they can levy a tax of one dollar sixty-one cents, one dollar applying to hard roads by a vote of the people. That requires a vote now. Then if it is under the control of the township authorities, they are familiar with the matter and they ought to be given to the extent the law now gives them, the right to make that levy if they want hard roads, because you cannot get them for nothing. If the county wants to contribute it ought to have the right to make a levy and contribute sufficient money for their part of the hard roads. Of course you cannot construct hard roads under the seventy-five cent limit now in the Constitution, and if you give the additional power it seems to me it ought to be given to the county and township both, so they can co-operate in the construction of the hard road, but under the law they cannot do more than two dollars thirty-six cents, which is under the control of the local authorities. I do not think that is a hardship, because they understand the situation and control themselves accordingly. I am very much convinced that the section should stand as it is. The first part should not stand unless the latter part stands, or unless some substitute is offered for the last part.

Mr. WALL (Pulaski). I want to ask some attorney in the Convention for information, whether there is a present statute that permits the levying of one dollar on the one hundred dollars valuation for hard roads for five years or is that one dollar per year for only one year?

Mr. TAFT (Fulton). It may not exceed one dollar per year for five years.

Mr. WALL (Pulaski). I am still for this entire section. I voted this morning against assessment because I do not believe that special assessments ought to be applicable to farm lands but I am a friend to hard roads and I believe this entire section should be adopted. There is a township that has poor roads and wants to build better roads itself. Why put it in the Constitution to make a county the unit, then the county can help them out? The county has enough in the treasury to help the township. It is true it would look like an exorbitant tax, but a levy of one dollar a year for hard roads and then sixtyone cents and seventy-five cents for the county, that looks like an enormous tax for road purposes, but then it is general taxation. Everybody uses a road like everybody uses a school, and I believe there are few instances where the limitation would be entirely urged, but the immediate necessity to build a great number of roads in the State, the financial condition these townships are in, the amount they have already voted for road purposes, and the building of bridges wherein the county would contribute a portion of this fund for immediate purposes would cause hard roads to be built on a large scale in the State. There has not been a road law passed in this State but the State Aid Road law, which is more popular than the federal aid. A township that can raise a portion of the money can join in partnership with the state and build a road, and the county can do the same thing, and the township or various townships

can immediately take advantage of this and begin road building. I believe it will please the people and it will bring about a lot of good roads, and I do not think the Convention should turn it down.

Mr. GALE (Knox). It is true we must look at the way this matter is actually done. Now at the present time the town can levy their sixty-one cents, and under certain instances their extra dollar. In practically every county in the State of Illinois there are cities which have very much more population than the towns have got. Those cities take care of their own roads by paving or other care, which is a much greater burden than on the town. In the townships in which those cities are located the town taxes do not need to be high because so large a portion of the roads are taken care of by the city. When you come to give the power to the whole county you must remember that seventy-five cents will include for the poorest township in the county not only the property in the township, but the property in every city in the county also. In my own county it would be a much higher tax than the one dollar sixty-one cents which that town could levy on the property within its limits only, and when you are permitting this seventy-five cents to be levied all over the county, including the cities as well as country property, you are giving to the county all the authority which it ought to have in the matter of taxation for road purposes; if you are going to have, as we voted to have, this section thirteen in, a county does not have to be made the road unit. Until that time it leaves to the town their one dollar sixty-one cents or any other limit that the legislature chooses to impose. If more is needed for road purposes and the town is the unit, the legislature can authorize that. This substitute does not interfere with that, but if the county is made the unit, with all the property within it, then this limitation would apply, and it seems to me it ought to apply.

CHAIRMAN SMITH. The question is on the adoption of the substitute offered by the delegate from Knox, Mr. Gale.

(Amendment carried, 23 to 15.)

CHAIRMAN SMITH. Now, the question recurs on the adoption of section twelve as amended.

Mr. GILBERT (Jefferson). I move section twelve as amended be adopted.

(Section twelve adopted.)

Mr. JARMAN (Schuyler). I move the adoption of Proposal 362 as amended.

(Motion prevailed.)

Mr. JARMAN (Schuyler). I move that the committee do now rise and report the result of these proceedings to the Convention.

(Motion prevailed.)

(President Woodward presiding.)

Mr. SMITH (Jo Daviess). Mr. President, the Committee of the Whole sitting in consideration of the report of the Committee on County and Township Government reports Proposal No. 362 as amended, and recommends its adoption by the Convention.

(Report adopted.)

THE PRESIDENT. Under the rules the report of the committee will be referred to the Committee on Phraseology and Style. The Convention is now under general orders of the day and is ready to proceed with the further consideration of the matters on general orders. For that purpose the Convention will now resolve itself into the Committee of the Whole.

Mr. SHUEY (Coles). I make a motion that the Convention do now adjourn until next Tuesday morning at 10 o'clock.

Mr. SHANAHAN (Cook). I do not see why the Convention cannot take up the report on Corporations. We can make some progress.

Mr. SHUEY (Coles). I will withdraw my motion.

THE PRESIDENT. The chair designates Delegate Fyke of Marion county to act as chairman of the Committee of the Whole. (Applause.)

(Chairman Fyke presiding.)

CHAIRMAN FYKE. The committee will be in order. The chair thinks it is due to the members of the Committee on Corporations and

Co-operative Associations, including himself, that a short preliminary statement be made.

The majority report of the committee as embodied in Proposal 354, is signed by all the members of the committee save one. The report was agreed to and signed in a spirit of compromise, with the thought that such action on the part of the members of the committee would expedite the work of the Convention. The report has perhaps not the unqualified support of any member signing it. It was apparent to the committee that the delay necessary to an attempt to reconcile the views of its members would perhaps hamper the work of the Convention. Therefore, the report is submitted to the Committee of the Whole for revision and amendment, each member of the Corporation Committee signing the report has reserved to himself the privilege to perhaps suggest amendments to the report as seems to him right. Under the rules the majority report is before you for consideration.

Mr. ELTING (McDonough). I would like to make a statement in behalf of the minority report. The minority report only has one signature to the report, but several members of the committee have joined with me in this report. The minority report concurs in sections one, two, three, four, six and seven of the majority report, which sections are the same as sections one, three, five, six, seven and thirteen of the minority report, and does not concur in sections five and eight of the majority report, but recommends that sections five and eight respectively, of the majority report be rejected and that sections eight and five of the minority report be substituted for said sections five and eight of the majority report. The minority report further shows that sections two, five, seven, eleven, twelve and fourteen of the minority report are entirely omitted from the majority report, and recommends that said sections two, four, seven, eleven and fourteen of the minority report and each of them be made a part of the Constitution of Illinois.

Now, Mr. Chairman, I move you that the minority report be substituted for the majority report.

Mr. CARLSTROM (Mercer). Before the gentleman proceeds—I do not desire to interrupt—but it seems to me the motion at this time is too inclusive. It seems to me, Mr. Chairman, and I rise to a point of order; the consideration of committee reports are by sections, after it has been read, and a motion will be proper for the substitution of any section of the minority report for the majority report, and that is the only way we can proceed.

CHAIRMAN FYKE. The point of order is well taken. Under the rules they shall first be read through and then acted on in sections.

Mr. ELTING (McDonough). I desire to make a statement wherein the minority report differs from the majority report.

CHAIRMAN FYKE. No objection, the delegate may proceed.

Mr. ELTING (McDonough). Section one of the minority report is the same as section one of the majority report and is a modification of the section one of the Constitution of 1870.

Section two of the minority report is entirely omitted from the majority report, and in section thirteen of the Constitution of 1870 with the word "railroad" before the word "corporation," a part of this section is obsolete.

Section three of the minority report is the same as the Constitution of 1870, and the same section is in the majority report.

Section four is entirely omitted from the majority report and is the same as section four of the Constitution of 1870.

The contention of the minority report is that it should be a part of the new Constitution and probably in a proper article concerning municipal government.

Section five of the minority report is the same as section three of the majority report and is drawn from section five of the Constitution of 1870.

Section six of the minority report is the same as section four of the majority report and is made up by sections six and eight of the Constitution of 1870 by eliminating such parts as are obsolete, and making some changes.

Section seven of the minority report is included in the majority report and is section seven of the Constitution of 1870 after omitting the first sentence, omitting the following, "any person, partnership or firm engaged in banking business shall at all times be subject to examination and control by the state authorities."

Mr. GALE (Knox). Will you give me your idea in making that change?

Mr. ELTING (McDonough). Well, my idea was, the law is now that an individual cannot engage in the banking business. I did not want to include that in the Constitution, because we might want to change the law in that regard.

Mr. GALE (Knox). The present law is designed to prevent the so-called private banks and prohibiting them from engaging in the banking business, as I understand it. Will this provision in the Constitution as you have drawn it, by your section seven, prevent the legislature from enacting a law prohibiting private banks? Is that your idea of this clause?

Mr. ELTING (McDonough). It might; I am giving a statement of the status, not arguing the point.

Mr. GALE (Knox). I wanted to know what it really means.

Mr. ELTING (McDonough). I do not think the Constitutional Convention wants to go on record that an individual did not have any right to run a business, if he so desired.

Mr. GALE (Knox). Is it your idea that the Constitution should permit individuals to conduct banking business?

Mr. ELTING (McDonough). If the people choose to change the Constitution in that regard.

Section eight of the minority report is a new section to correspond to section five in the majority report. These sections are both new sections, and the minority report desires to substitute section eight for section five of the majority report, that is with regard to fixing rates for public utilities.

Section nine of the minority report is the same as section nine of the Constitution of 1870, and is entirely omitted from the majority report.

Section ten of the minority report is the same as section six of the majority report and just the same as section ten of the Constitution of 1870.

Section eleven of the minority report is exactly the same as section eleven of the Constitution of 1870, and this section is also omitted from the majority report.

Section twelve of the majority report is the same as section twelve of the Constitution of 1870, and is entirely omitted from the majority report.

Section thirteen of the minority report is just the same as section seven of the majority report.

Section fourteen of the minority report is the same as section fourteen of the Constitution of 1870, and this section is omitted entirely from the majority report. That is the section with regard to the right of eminent domain.

Section fifteen of the minority report is exactly the same as it is in the Constitution of 1870 regarding the Illinois Central Railroad Company, and section eight in the majority report contains part of the section, omitting a part directing how the money shall be applied, and omits this language: "all money derived from said company after the payment of the state aid shall be appropriated and set part for the payment of the ordinary expenses of the state government, and for no other purpose whatever."

The two reports are the same excepting sections five and eight in the majority report, and the minority report seeks to substitute sections eight and sixteen of the minority report for sections five and section eight of the majority report, and then sections two, four, seven, eleven, twelve and fourteen, we desire to have made a part of the new Constitution. It is important that these sections that are omitted from the report should be considered because under the rules the old sections of the Constitution that are not modified go automatically in the new Constitution, or the Committee on Phraseology and Style are required to insert them in the Constitution. Some action may be needed, some modification, and we will bring them all to the Committee of the Whole for consideration.

CHAIRMAN FYKE. The clerk will read the report in full.

(Report read by Secretary.)

Mr. ELTING (McDonough). I move the adoption of section one of the minority report.

Mr. GREEN (Champaign). Point of order. The minority report is not before the committee.

CHAIRMAN FYKE. The point of order is well taken.

Mr. DAWES (Cook). I move we adopt section one of the majority report.

Mr. DUPUY (Cook). I move that this section be amended by inserting the words, "those for charitable, educational, penal or reformatory purposes," in line one.

Mr. SUTHERLAND (Cook). May I make a request? I am a simple layman in matters affecting law and practice of corporations, and there are a number of changes from the present language of the Constitution, and a number of omissions. Possibly this would be helpful to me alone, but I think it would be helpful to the record and the people at large if some of the learned members of the committee would explain why the departure is made from the present article on corporations.

CHAIRMAN FYKE. The chair will say with reference to section one that the committee intended to omit nothing that was said under section one of the old Constitution and thought it had been done in better language.

Mr. CARLSTROM (Mercer). I desire to offer as a substitute for the amendment and the section in the majority report section one of article eleven of the Constitution of 1870 on corporations. I desire to state briefly in support of that offer as a substitute this much. The chair has just stated in answer to the question from Delegate Sutherland (Cook) it has been the intention of the committee to incorporate all the essence of section one in the old Constitution in this section one of the majority report, all of which I am in hearty accord with, but I believe this, that where a change is unnecessary, where we are not changing the substance or meat of an article or section, we should not change the existing conditions simply for the purpose of improving the phraseology. I believe that this section has been understood by our people in the fifty years it has been in force, and as the chair states it carries the same force and effect as modifying section one of the majority report, and under the circumstances I think it is the proper thing for this Convention to do to simply readopt section one of article eleven on corporations of the Constitution of 1870, which avoids the necessity of the amendment offered by the gentleman from Cook, Judge Dupuy, and I respectfully suggest the substitution of section one of article eleven for section one of the majority report and the amendment.

Mr. DUPUY (Cook). I like the suggestion made and will be glad to accept the motion as a substitute for the amendment offered by me.

Mr. CARLSTROM (Mercer). I move that section one of the present Constitution of article eleven on corporations be substituted for section one of the majority report and the amendment which I understand is withdrawn, and be adopted as section one.

CHAIRMAN FYKE. The question is on the motion of the gentleman from Mercer (Carlstrom).

(Section one adopted.)

CHAIRMAN FYKE. Please read section two.

(Section two read by Secretary.)

Mr. MAYER (Cook). I move to strike out section two of the majority report in toto, and I believe I can satisfy both the legal and lay minds of this Convention, at least I hope so, that section two in its entirety should be eliminated.

CHAIRMAN FYKE. The question is on the motion to strike out section two of the majority report.

Mr. MAYER (Cook). Mr. Chairman and Gentlemen of the Convention: I think that all of you will agree as the debate and the discussion proceeds with reference to article eleven in the Corporation Act that I am as anxious as any one in this hall for the enactment of sound and safe and proper con-

stitutional provisions regarding corporations. This section two is the same as section three of the old Constitution of 1870, article eleven. My reasons for making the motion to strike, tersely put, are these: I will read the section so that my views may be all the more clear. Section two of the majority report, which is also reported favorably in the minority report reads as follows: "The General Assembly shall provide, by law, that in all elections for directors or managers of incorporated companies every stockholder shall have the right to vote, in person or by proxy, for the number of shares of stock owned by him, for as many persons as there are directors or managers to be elected, or to cumulate said shares, and give one candidate as many votes as the number of directors multiplied by the number of his shares of stock, shall equal, or to distribute them on the same principle among as many candidates as he shall think fit; and such directors or managers shall not be elected in any other manner."

In the General Incorporation Act which was passed at the last session of the General Assembly, that body enacted a corporation law, section fifty of which is substantially the section of the majority report to which I am now directing myself.

You will observe that the section requires that the General Assembly shall provide by law, and that the last sentence of that section provides such directors or managers shall not be elected in any other manner. Both from an economic, from a financial and from a legal standpoint, it is my view, that that section should be eliminated in its entirety. For the benefit of those who are not members of the bar, I call their attention to the fact that the Supreme Court of this State in two decisions, one the Durfy case in the 155 Ill., and the other the so-called voting trust case in the 270 Ill., have decided that to take away the equal right of a share holder to vote, or an agreement by a shareholder surrendering by proxy irrevocably his right to vote, is unconstitutional, and in the Durfy case the Supreme Court decided that where the bondholders purchasing bonds containing an agreement and a stipulation that the holders of the bonds should have, for every hundred dollars represented by the bonds, the same right to vote as the holder of a one-hundred dollars share, the Supreme Court held that the agreement was unconstitutional and void. Furthermore, this section pays no attention whatever to agricultural, horticultural or co-operative associations, which can now be organized under the laws of Illinois. I had the Secretary of State send me this forenoon a memorandum of the total amount of fees that were paid during 1919 into the State Treasury by corporations, and it reads as follows: "During 1919, the Secretary of State received from domestic corporations the sum of five hundred forty-five thousand, six hundred twenty dollars, eighteen cents, and from foreign corporations, the sum of one hundred twenty-three thousand, two hundred twenty dollars, fourteen cents," and in the same letter the Secretary of State states that there are between twenty-five thousand and thirty thousand domestic corporations actively engaged in business in this State. I wish to correct a statement when I say this is from the Secretary of State. It is from the Legislative Reference Bureau, in which the writer informs me that the "Secretary of State" estimates and the "Secretary of State states," so that the letter is from Mr. Verlie, secretary of the Legislative Reference Bureau, to whom I addressed an inquiry this morning to get the data from the Secretary of State to which I have called your attention.

Let me give you an illustration that has occurred from personal experience. If any three or more of you gentlemen desire to form a corporation under the laws of Illinois, you put in your brains, your talent and your discoveries, your patents, your trade-marks, and your good will, which may be of great value, but you need some money in order to develop your enterprise, but you want to retain the voting control of your corporation, even though you are willing to part with the managing and ownership of your company. You cannot do it because every share of stock that you issue, whether it be preferred, first preferred, second preferred or common, or under any other classification, has, under this Constitutional provision a right which cannot be parted with, even by unanimous contract, so that if in

the case I use by way of illustration the three members of this Convention, together with the financiers of the bankers who are advancing the money, enter into an express contract in writing, signed and sealed, in which it be agreed that the stock retained by the inventors, who are usually the poor men, shall have a certain voting power which will retain the inventors in control of their company, such a contract is void, and the retention of the management and control is unconstitutional. Now, is it wise to put into the Constitution of Illinois, and it has been there since 1870, to continue there a limitation and restriction which subserves no useful purpose, but to a large extent materially impairs the conduct of corporate business in this State, and more than that, diminishes the receipts of the Secretary of State? I am, of course not, at liberty to name specific or identify particular cases. I say to you gentlemen, in my office during the current year my clients have paid to the Secretary of State of other states for charters that we have been compelled to take out there not much less than two hundred thousand dollars, all of which would have gone to the Secretary of State of Illinois. The 1919 statute provides that the initial fee—I am giving this information for the benefit of the layman and not for the lawyers—provides that such initial fee shall be one-twentieth of one per cent before the Secretary of State issues the certificate of incorporation. Now, what is the result? That the corporations which desire to give special voting rights to certain stock cannot incorporate in Illinois; they incorporate in New Jersey, New York, Delaware or other states, and then they obtain from the Secretary of State of Illinois a license as foreign corporations to do business here. The State is thus deprived of a very large source of income. As I say, and I think I have put it modestly, I have in mind one corporation alone, which, if we could have incorporated in the State of Illinois, would have been obligated to pay one hundred twenty-five thousand dollars. Now, we gain no advantage. This is not an argument made on behalf of corporations, either to benefit or facilitate their business, because there are forty-seven other states in the Union to which they can go, and to which they can apply for charters, and they obtain their charters, and as foreign corporations come back to Illinois and do business here. The right of contract, gentlemen, whose sanctity I need not refer to in the presence of lawyers of your experience and standing, ought not to be taken away by a constitutional provision which has nothing to do either with public policy or with crime, real or quasi, or with any public relation, a section that was put into the Constitution of 1870 undoubtedly for another purpose, and that purpose, so far as we can gather it, was to give the right of cumulative voting; that is to say, a shareholder should have the right to cast as many votes for each share as there are directors in number to be elected, so if the corporation has five directors, the owner of one share could cast five votes for one director, or distribute his five votes among five or among a lesser number. That enables what is called minority representation in the board of directors. It is quite immaterial to me, quite unimportant, whether minority representation be provided for or not. The provision should be made where it probably belongs, in the act of the legislature, and the Corporation Law of 1919 should so provide for cumulative voting for minority representation. This section two, unless the Convention is prepared to continue a constitutional fundamental principle of Illinois sovereign government, a doctrine that men may not get together and by contract agree for the purpose of the business of the particular corporation, that there should not be equality of voting, I say unless the gentlemen of this Convention are prepared to say that this power of contract shall be destroyed and thus continue the 1870 section three of article eleven provision, it is my impression, gentlemen, that it does not belong in the Constitution, it should go out, that it does not belong in the statutes and should go out.

Let me give you, probably in the experience of all of you, one or two illustrative cases. These suggestions, gentlemen, are not advanced to benefit Chicago any more than to benefit Bloomington or Peoria or Springfield, or any other city, town or village in Illinois, because it applies to all, equal and alike. Suppose we say in Springfield or in Bloomington or in

any county, town or village you want to form a corporation with a capital stock of fifty thousand dollars and you want to turn into that corporation property that is actually worth fifty thousand dollars of money, but you have got some great inventive problem, some great discovery that you want to turn into the corporation for another fifty thousand dollars, but you want to guarantee to the banker or to the men who are putting in their money a preferred right of participating in your profits, and you issue preferred stock bearing seven or eight per cent, and you say to those men, we are going to pay you eight per cent, which is a substantial return on your investment, and what is more, if you want to be over-liberal, we will say, we will give you a participation in one-fourth of the profits in excess, or one-fourth of the dividend that is paid on the common stock, but we don't want you to vote, because if you do, you get fifty thousand of the preferred stock, we are only issuing twenty-five thousand to ourselves in common, or fifty thousand to ourselves in common, and all you need to do would be to buy one share of common stock and you can vote us out—we want you to agree your preferred stock shall not be entitled to vote unless there has been a default on one or two dividend dates. I say that method of organizing corporations is as common, is as equitable and just as the intelligence that the Divinity has put into your head. It is done not only in Chicago but in probably every other city in Illinois and in the Union where corporate enterprises are formed, and I need not to this body say anything either pro or con about the corporated enterprises. The name corporation will neither invite contempt nor necessarily invite enthusiasm, but I submit there is no reason for section two remaining in the Constitution. It should be eliminated.

I shall not delay to read to you gentlemen what the Supreme Court said in the two cases to which I have referred, and the little I might add would be repetition. What is the argument why it should stay there? Because it was put there in 1870? That is not an argument, unless it has accomplished and subserved a good purpose. Has it? It has not, gentlemen, because those corporations which desire to be locally fortified and protected have gone into states where the statutes in those states and their constitution permitted an arrangement by which the shares did not have an equal right to vote. Those corporations have not been hampered, they have gone elsewhere and come back here and done business here, but I have no doubt, gentlemen, that a number of the smaller companies organized in this State with perfect feeling of security have, when their companies have been organized, entered into contracts upon which they have relied, by which the power to vote was limited and restricted.

Such contracts get into the office of a lawyer in a city like Chicago with considerable frequency, where laymen getting together have overlooked the fact and their contracts have not been attacked, but when the contracts have been brought into question, they have fallen under the provision of the 1870 Constitution as interpreted by the Supreme Court. Now, I urge upon the gentlemen of the Convention, and I am not going to repeat, because I am always opposed to the expression, "Methinks the lady doth protest too much"—these suggestions are advanced in the interests of the State of Illinois, in the interest of the entire people, its commerce, its social, financial and industrial development. There is no reason why all the fees which now go into the treasuries of the different states, and which, Mr. Chairman and gentlemen of the committee, I have no way of estimating, but they must run up into many hundreds of thousands of dollars a year, could be retained in this State and utilized for public improvements, for benefits that would advantage, would help and aid and assist the people of the State of Illinois. I urge you gentlemen, and Mr. Chairman, to look at it in the light which is prompted by some little experience, a light which I repeat is meant, so far as lies within my power, to develop a question from the standpoint of the State of Illinois, not Chicago, not from the standpoint of any individual or any individual interest. If such a provision as to cumulative voting is desirable, the legislature will enact it, and has already enacted it. It is contained as I have said in section fifty of the Corporation Law of 1919,

Mr. CARLSTROM (Mercer). I would like to ask the distinguished delegate from Cook a question. How recently have you found it impossible to obtain a certificate of incorporation in Illinois where the articles of incorporation provided that the preferred stock should not have voting power?

Mr. MAYER (Cook). It has been denied every time we have made application.

Mr. CARLSTROM (Mercer). For the last how many years?

Mr. MAYER (Cook). I would not be able to give you the month, but I should say when we finally took up the matter with the Secretary of State and the Department of Justice and found that they would not issue certificates, we believing that the certificates if issued would not be legal, we simply abstained from making application.

Mr. CARLSTROM (Mercer). The reason I ask the question is this: My information is this that it is only very recently that the Attorney-General of Illinois has ruled or advised the Secretary of State that that sort of incorporation would not be allowed.

Mr. MAYER (Cook). He has ruled it very frequently. One Attorney-General some years back gave it as his opinion to the Secretary of State that the parties could by contract waive the right to vote. I want to say to you, inasmuch as my legal opinion did not agree with that of the Attorney-General, and inasmuch as the Attorney-General's opinion would not have been binding on the court, but in view of the decision of the Supreme Court in the 270th Ill., we were satisfied that the legal risk should not be taken, and we have never taken it, and I think that probably most if not all other lawyers, or nearly all other lawyers acted as we have acted.

Mr. CARLSTROM (Mercer). Does the gentleman refer to the 270th Ill.?

Mr. MAYER (Cook). That is the vote trust case.

Mr. CARLSTROM (Mercer). Perhaps the gentleman has seen in the Supreme Court of Missouri, where the identical language, verbatim—

Mr. MAYER (Cook). They have held the other way.

Mr. CARLSTROM (Mercer). Yes.

Mr. MAYER (Cook). I am aware of it, but we are in Illinois.

Mr. CARLSTROM (Mercer). The reason I am asking these questions, I had the impression that following the decision of the Supreme Court of Missouri that the practice would continue in Illinois, that by contract and agreement persons could provide by articles of incorporation for non-voting power.

Mr. MAYER (Cook). I want to say to you I hope I am not treading upon controversial grounds. My eye-sight is bad and I do not know whether you are a layman or a lawyer, but I give it as my opinion for what it is worth that you cannot lawfully in the State of Illinois irrevocably give up your right to vote. You can give it up if it is not contested, and the decision of the Supreme Court of Missouri which holds directly the contrary is the repetition of a prior decision of the Supreme Court of Illinois is not always followed by other states, and the Supreme Court of Illinois does not always follow the Supreme Court of other states. In the Woman's Suffrage case, which I argued in the Supreme Court, I was beaten by a divided court of four to three; the fourth holding it constitutional; the Supreme Court of Indiana within two years thereafter on exactly the same provision held the law unconstitutional, and in a subsequent case when the Supreme Court of Indiana's contention was brought to the attention of the Supreme Court of Illinois. The Supreme Court of Illinois invoked the adoption of stare decisis.

Mr. CARLSTROM (Mercer). Is there serious objection to the right of a minority stockholder to cumulate his vote?

Mr. MAIER (Cook). None whatever. I will favor its preservation, but not in the Constitution.

Mr. CARLSTROM (Mercer). So we are narrowed down to the proposition of what the gentleman feels ought to be relieved in this section is the

right of persons to associate themselves by contract to provide by that contract how they shall vote their stock.

Mr. MAYER (Cook). Not only by contract, but by charter, because if you do it by contract, every time a new share holder comes in, you will have to make a new contract. I have not the slightest objection to minority representation, and that applies to private corporations or municipal corporations. From my standpoint I have not the slightest objection to giving minority representation in the legislature or anywhere or everywhere else, nor in the private corporations, but it does not belong in the Constitution. Your legislature has there provided, it is in the Acts of Incorporation adopted in 1919, and when the legislature wants to change minority representation in private corporations it should be permitted to do so without calling a convention to amend the constitution, which we hope after we adopt it, will be ratified by the people.

Mr. CARLSTROM (Mercer). Is not the doctrine of cumulative voting a correct one?

Mr. MAYER (Cook). I think it is.

Mr. CARLSTROM (Mercer). Is it not true that the legislature of Illinois probably acted because that protective provision was in the Constitution?

Mr. MAYER (Cook). I could not answer that, I do not know.

Mr. CARLSTROM (Mercer). If it is correct in principle, don't you think it is the part of wisdom to leave it in the basic law?

Mr. MAYER (Cook). There are many things good and wise that ought not to be, in my opinion, incorporated in a Constitution, which we hope there will be no occasion to amend for some generations. My theory of a constitution is probably the same as yours, that you want in that constitution fundamental principles of law. I may be too conservative, but that is my view.

Mr. CARLSTROM (Mercer). Is it not true in your judgment if this section were eliminated it would open the way to the exercise in Illinois of provisions in some charters or by-laws similar to that known as a voting trust, which has been conceded to be vicious.

Mr. MAYER (Cook). No, because in the first place the legislature has a provision which protects minority representation, and in the second place I beg to differ with you, I do not think the voting trust is vicious any more than the appointment of a man as assistant treasurer or cashier is vicious though he has turned out to be a defaulter. There are thousands of voting trusts whose fidelity has never been questioned. There are to-day in Illinois hundreds, if not thousands of voting trusts which are respected by the parties to the contract.

Mr. CARLSTROM (Mercer). In other words, there are hundreds and hundreds of corporations violating the laws of the State?

Mr. MAYER (Cook). The Supreme Court did not hold it was illegal, it was entirely lawful, but it was not binding if one wished to withdraw from it.

Mr. CARLSTROM (Mercer). Your idea is that we should wipe out this restriction and issue letters of marque and reprisal in Illinois because it would produce some fees from corporations in Illinois?

Mr. MAYER (Cook). I am not perhaps as well equipped as you are in land and marine warfare, when you talk about letters of marque and reprisal, but I answer, you do not open the doors, because these agreements limiting the right to vote are made every day under charters granted by other States, and the laws of Illinois do not prohibit those companies from doing business here, and recognize those charters every day.

Mr. CARLSTROM (Mercer). Isn't it a fact that these corporations are chartered in Delaware, which is a sort of stench in the sisterhood of States, but they are required to comply with the laws of Illinois before they can do business in Illinois?

Mr. MAYER (Cook). There is no such compliance required, they must agree to obey the law in Illinois, of course.

Mr. GILBERT (Jefferson). Mr. Chairman and Gentlemen of the Committee: I feel my weakness in the discussion of this question in following so eminent a gentleman as the delegate of this Convention (Mr. Mayer), who has just spoken.

I am not a member of the Committee on Corporations, but I arise to support both the majority and minority reports upon the proposal to adopt section three of the old Constitution, made section two of the majority report.

I have not had such large experience in organizing large corporations as has the gentleman from Cook. My experience, gentlemen of the Convention, in the line of corporations has been limited to the organization of corporations in the country, but I want to say, gentlemen, that I feel that this Convention is now approaching the consideration of the most important article that it has had or will have to deal with during its entire session. Our work here will doubtless be measured very largely by the article on corporations that this Convention produces. For that reason, I think that we should pause, that we should consider for a long time before we are prepared to take the proposed step of striking from our Constitution this provision that was inserted fifty years ago, this section is the foundation, as I understand it, for fairness and for honesty, and fair square dealing by corporations. This section is the very heart of the article on corporations in our Present Constitution, and will be, if left in the present article, the heart of the next Constitution.

It is said that it is legislative and that this privilege should be up to the General Assembly. The Convention of fifty years ago felt that this sort of restriction should be placed in the Constitution. It was placed in the Constitution, and I think it was properly placed there, and It has not had the terrible calamitous effects on business that the delegate from Cook appears to think it has had in Illinois. I believe both as a citizen and as a member of this Convention, that shareholders of stock should have a right to vote. It is sought to take it out of the Constitution and leave it to the legislature. If this is withdrawn from the Constitution, in my humble judgment, some future legislature of this State will amend and change the provisions of the present statute, and so to speak Delawarize the State of Illinois, the State in the Union that is regarded as the source of many dishonest corporations of the United States. Not that all corporations that go there are dishonest, however.

Mr. MAYER (Cook). Most of these corporations are organized under the laws of New York.

Mr. GILBERT (Jefferson). Gentlemen of the Convention, do we want to place the people of the State of Illinois by our act in that condition? For one I believe there should be as fair dealing, and as fair treatment of holders of shares of stock in a corporation as in private business. I do not believe we should open the door in the least for the purpose of permitting any sort of fraud insofar as we are able to prevent it. I want to say to the credit of Illinois, I want to say to the credit of the members of the last General Assembly, with the distinguished speaker sitting before me (Shanahan), I want to say to the credit of your Secretary of State, Mr. Emmerson, that in the last twelve months, in the enactments of the last legislature, more has been done to put honesty into corporate securities in Illinois than has ever been done in the same length of time before. Do you want now to take a backward step, to retrace the step taken in the right direction? The time will come, I hope, gentlemen, in the lives of the members of this Convention, when there shall be as much fairness, as much solidity and soundness in the average commercial corporation as is to be found in banking corporations. I hope the time will come, because I believe in old-fashioned square dealing in these stocks, if I know what that means, I hope to see the day when shares of stock will be issued under the inspection of the State, and will be paid for one hundred cents on the dollar, and when that time comes, when the millions that are issued for water by corporations without the receipt of a nickel in property or money, when that time comes

you will not have to go out and sell such large quantities of preferred stock to get the money upon which to operate the business. You will have the capital to organize it honestly; and every share of stock issued for nothing, issued for water is dishonest, is fraudulent and is a falsehood upon its face, and the last General Assembly went far enough to say that every share of stock should have stamped upon the face of it what part of it has been paid for, so that the purchaser who acquires it may know something about whether it is all water or only part water.

Now, gentlemen of the Convention, it has been suggested that the State of Illinois has suffered untold losses in the receipts of fees because we did not open the door to all kinds of corporate issues of corporate stock, and that they go elsewhere, and that they will go elsewhere unless we open the door. Why should we, if it is right that shareholders should have the right to vote, take it out of the Constitution?

There are some things that are against public policy, that the Constitution holds should not be done, although people may under certain conditions consent to enter into contracts; and the Convention of fifty years ago determined that this was one, and that every shareholder should have a right to vote, and if he wishes to contract that right away, he may undo such act.

I am not opposed to corporations. Half of the small accumulations of my life are invested in corporate shares. I believe in corporations that are essential to our transportation, commercial and industrial life, but gentlemen, I am for their dealing fairly and for their giving to every shareholder the right to vote and also the right to every shareholder to cumulate his vote, and for the minority stockholders to have some representation on the board of directors, and until the State comes to the point of regulating corporations at the source, and regulating them by examinations, as banks are regulated, we should retain such a provision in the Constitution for the protection of those who hold shares in all corporations, and I am not ready to concede that the man who holds shares of preferred stock, that the man or men that put the capital into the corporation to make the wheels go round should not, in some circumstances, have a right to vote.

I am not able to understand why the man who furnishes all the capital in the enterprise, and I have seen it frequently in the last year, should be deprived of any right or voice, even upon default in the payment of dividends. I think it would be a great mistake, I think it would be the greatest mistake this Convention could possibly make to take what I believe is a backward step. In such little observation of corporate procedure as I have been able to gather in the last year, in the examination of acts of corporate procedure of all the States of the Union, and particularly Delaware and the Dakotas, I am convinced that the greatest blunder this Convention could make would be to take out of the Constitution this sound foundation, the very heart of our Constitution.

Now, it has been said by the delegate from Cook county that the Secretary of State's office, because of these restrictions, suffers great losses in fees. I have some figures from the office of the Secretary of State myself, and I want to say before I give them to you, that the last enactment of the last legislature is by far the best general corporation act that the State has ever adopted, according to my views. It is true it gives to corporations greater power than they before possessed, but in return it demands greater honesty; it was predicted that the State would lose and suffer by reason of these restrictions, in this demand of honesty, and it was said they would go to other states to incorporate. If a corporation is not willing to deal fair with the stockholders, so far as I am concerned, they can go to Delaware or some other state, and organize. I care nothing for that, but if they do any business in Illinois, and if they came to Illinois to do business, the legislature has said you have no greater power in Illinois than if you were incorporated under the laws of Illinois; if you go to a foreign State and organize you have to pay a tax for domesticating in Illinois. Corporations have been staying in Illinois under these

restrictions in greater numbers than ever before. I want to give to this Convention some of the receipts—while the act reduces the fee substantially, the figures of the office of the Secretary of State show that from July for ten months—and I make comparison between ten months under the old law and under the present corporation act—for ten months, from July 1, 1918, to May 1, 1919, the Corporation department received \$596,138.03. During the ten months from July 1, 1919, to May 1, 1920, the same department received from the same sources \$751,046.67. Between March 1, 1920, and May 1, 1920, the Corporation department collected in franchise taxes from corporations \$246,019.78. This is in addition. There has been collected under the provisions of the new act \$991,066.45, as against \$596,138.03, collected from corporations for the same period of time in the preceding year under the old law, and that is not all. There were incorporated in Illinois domestic corporations and licensed during the ten months spoken of under the old law 2,374, and under the more drastic provisions of the present corporation law, there were incorporated 4,507, almost double the number of domestic corporations, and there were licensed 432 foreign corporations. Now, if a corporation should make its own law for stockholders voting, I think in some of such cases a fraud may be perpetrated. Not everybody who is a purchaser of shares of stock is as skilled in the law as the delegate from Cook, but persons without legal knowledge acquire shares of stock, and those shares of stock have printed in script on their face so it is not noticeable that the holder does not have the voting privilege, in many instances. All the corporations that come into Illinois that want to sell their stock are not entitled to the fullest latitude that can be granted. The record for the last eleven months shows that over forty per cent of corporations asking the privilege of selling their securities in Illinois, in the opinion of the Securities Department of the Secretary of State's office, if permitted to do so, would work a fraud upon investors and were denied the right to sell. I will give you the number of cases so it will not be an estimate: Since the 10th day of last June there have been presented for filing in Illinois applications to sell stock and other securities to the number of 496. Of that number 288 were filed; on the other hand, 208 corporations were refused the right to sell their stock and securities because the Secretary of State believed that their plan of organization or scheme might work or tend to work a fraud; and in some instances the decision was partly based upon the peculiar arrangement about the rights of voting shares of stock. I know that prominent citizens have the view that they should be entitled to make their own private arrangements, to sell their own corporate issues unregulated, unrestricted and unbridled. That may be all right, it may be well to do it, but that was not the viewpoint of the General Assembly in its last session when it made certain requirements regardless of contracts or arrangements privately made before they could do so.

In professional life I am the representative of a number of corporations. Many of the delegates are representatives of large corporations, but in dealing with this basic subject, we must and will look at the work we are going to do without bias and we should consider how the people of the State of Illinois will look at the work of this Convention on this subject when finished.

The Secretary of State, Mr. Emmerson, has been mentioned, and as I said awhile ago, permit me to state again that he has done more than any other man in Illinois, with the help of the General Assembly, to try to get honesty into corporate securities that are sold to the public. This section should stand in the Constitution unchanged. If you want to undo all that has been done, open the door so that the legislature may be deceived, and in an unguarded moment Delawarize, as I say, the State of Illinois, you will vote to strike out this section. Some of the corporate organizations that are put out in the State of Delaware, some of them are no credit to the state or nation, and I do not want that condition to be possible so far as I am concerned in the State of Illinois.

I am unwilling to yield to the demand for fees when it comes to such a question of principle. I am unwilling, as I see it, to adopt an act which I feel would be an act against the State of Illinois in matters of this character for the sake of fees that might come as the result of it. Therefore—and I apologize to you for taking so much time as I have, but I have this feeling from the bottom of my heart, and I want the right to prevail—I ask you therefore to stand by the report of the committee, and adopt this section and not strike it out.

Gentlemen, if this motion prevails, in my judgment this Convention will make a mistake from which it cannot recover, and I beg of you to vote against the motion to strike.

Mr. DAWES (Cook). When we deal with the section that establishes control over corporations we touch an agency under which the greater portion of the business of this State is transacted.

A corporation is an association of citizens authorized by law to combine their efforts in the transaction of business. Too great restriction upon the power of corporations may be an invasion upon the right of individuals. The most famous definition of corporations was undoubtedly that given by Judge Marshall in which he says, "A corporation is an artificial being, invisible, intangible, and existing only in contemplation of the law." Now, a corporation, in the contemplation of the citizen, appears in two different aspects. From one standpoint it is looked upon as a great aggregation, powerful in all its agencies, invading the rights of citizens, perhaps, or a great and powerful aggregation controlled by a few in disregard of the rights of stockholders and in violation of the rights and interests of the public. From this standpoint there appeared to be great abuses that have been committed and from this standpoint the indignation of the citizen is aroused against the corporation and the general opinion of the public is that the corporations require control. Indeed, in some cases the indignation is so great that some, observing the abuses of this machinery, would destroy the machinery itself, but there is another standpoint from which we may look at these corporations, namely, as being the agency established by the State for the use of the citizen, as the medium by which they may organize themselves so as to enter into business activities. And the theory of corporations not only here but elsewhere, not only now but in all civilized countries in the history of the world, has been, that it is agency placed in the hands of citizens whereby an association may be established that would enable the citizens to carry out any contract or agreement through co-operative action that may be made as between individuals. Now, when men enter into business association they bring to that association various qualities and various agencies, and when they combine these qualities and agencies, they expect that division be made of the profits and of the burdens under differing conditions. The elements that enter into a corporation for its success are the elements of brain, energy and capital. Brains, or the idea, the scheme, the opportunity, whatever it may be, energy, the managerial ability, the attention to the business, and capital, the money that is necessary to put these agencies into operation. Now, when brains, energy and capital enter into an agreement and combine their effort for the purpose of establishing profit or advancing an interest, they expect it to divide that profit in different ways. The risk and the responsibility is divided according to the contribution, and according to the effort that is given to the success of the enterprise. Why, when brain, energy and capital wish to enter into an agreement to promote the business interests of the country should the State undertake to say in what manner the responsibility for the control of that activity should be exercised? Men say here that they do not want to permit the preferred stock to be deprived of its voting power, but if those who contribute capital by way of preferred stock wish to put the responsibility of representing them upon men whom they trust, why should the State step in and interfere with them reposing their trust in such men? Why, if men are given the opportunity to join in these enterprises, should they be denied the right to establish the conditions which should control their activity. Why should the legislature be deprived of the power and authority to establish those

relationships, which in its judgment in the majority of cases would be fair? If it is thought necessary to deprive individuals who enter into these associations of the right to establish the condition under which they shall act, why should the legislature also be denied the right to lay down the law that should control them? These laws may from time to time change. Surely it will not always be the case that all corporations must be compelled to adopt the one prescribed method of fixing the responsibility for the control of that association that is now fixed in the Constitution of the State of Illinois. That it has not been satisfactory to our citizens has been known to all of us, from the fact that so many of our citizens have gone to other states to organize the companies to which their activities would be directed. No citizen of the State of Illinois has ever been protected by this provision of the Constitution. Many citizens of the State of Illinois have avoided the burdens and disadvantages that in their judgment are placed upon them by this provision in the Constitution by going to other states to organize companies. The gentleman who has just spoken has said that he wished to deprive individuals of their freedom in making contracts for fear that some of the contracts in the end would produce a fraud upon the citizens themselves. Gentlemen of the Convention, I feel safe in saying that the citizens of Illinois ask no such protection. All they ask is freedom in making their own arrangements to organize their own companies according to their own judgment as to the divisions of the risk and the responsibility and the profits of these enterprises.

They do not want to have the government at their elbows all the time to tell them what sort of contract they should make, but to be left free to make their own contracts. They have suffered from too many laws rather than too few, from too much interference with their freedom of doing business rather than from too little interference in doing business, and the words of Macauley occur in this connection, "that man can make shift to live under a tyrant, but to live under a busy-body government is more than human nature can endure".

Mr. GORMAN (Cook). After listening to the several arguments on this subject, I am convinced that the present section No. 3 of our Constitution, which is section two of the report we are considering ought not to be placed in the new Constitution. I think that the most eloquent argument for striking out this section was made by the Delegate from Mt. Vernon (Gilbert). He said in the last ten months four hundred thirty-two foreign corporations had been given license to operate in this State of Illinois. That is proof that these are bona fide corporations carrying on business in an honest and constructive and not a fraudulent way. I think it would have been a very beneficial thing, financially indeed, if these corporations could have had their birth in Illinois, and I do not see any reason why they should not have been given license in the first instance had they desired to apply for it, if they are permitted after incorporation in other states to come into the State of Illinois and to do business, as the delegate has told us they are permitted to do. I think this section is keeping many bona-fide enterprises from having their inception in Illinois, and they are coming here ultimately to do business, so why not permit them to come into Illinois in the first instance to have their incorporation here? I feel that the argument of the delegate from Cook who raised this question is a strong argument in favor of the elimination of this section from the Constitution that we are now engaged in writing.

Mr. CARLSTROM (Mercer). The case in the 270th Ill. has been referred to. I will call your attention to the fact that it absolutely makes no reference to this provision in the Constitution whatever. It is a suit brought by Ferd Luthy, et al., against Henry Ream, et al., to dissolve a vicious voting trust which had been arranged to continue for twenty-five years. It had originally four thousand shares of stock, two thousand and one of which had been voted into the hands of one gentleman by the name of Henry Ream who should be authorized to conduct the affairs of the corporation for a period of twenty-five years, and the gist and substance of the

case is simply this, that a vote of a stockholder cannot be surrendered, his proxy cannot be permanently surrendered; in the interest of all stockholders each stockholder should reserve the right to exercise it, to express himself on the policy and administration of the corporation, and a suit was brought to set this agreement aside making this voting trust. The statement of the facts in the case, by Mr. Justice Dunn, page 170 of volume 270, is as follows:

"Ferd Luthy, Daniel W. Voorhees, George T. Page and Thomas Cahill filed a bill in chancery in the circuit court of Peoria county against Henry Ream, Benjamin D. Brewster, William Holly, the Peru Plow and Wheel Company, (a corporation,) and other persons, stockholders in the corporation, the object of which was to procure the cancellation of a certain voting trust of stockholders of the corporation as to Thomas Cahill, the setting aside of the action of the directors of the corporation fixing salaries of Henry Ream, Benjamin D. Brewster and William Holly, as president, vice-president and treasurer, respectively of the corporation, a return of the amount of the salaries received by them, and the issue of a certificate of 70 shares of the capital stock of the corporation to Thomas Cahill. Answers were filed, and after a hearing the court rendered a decree granting the relief prayed for. Upon an appeal by some of the defendants the Appellate Court for the Second District reversed the decree except so far as it held the fixing of the salaries of the officers illegal and required the amount received by them to be refunded. Complainants have appealed from this judgment, the court having certified that the case involves questions of law such importance that it should be passed upon by the Supreme Court.

"The Peru Plow and Wheel Company is a corporation organized under the laws of Illinois, having a capital stock of \$400,000, engaged in the manufacture of plows, metal wheels and farm implements. The complainants are the owners of 2027 of the 4000 shares of its stock, Thomas Cahill being the owner of 70 shares purchased in November, 1912. In September, 1912, forty-one of the stockholders, owning 2001 shares of the stock, entered into the trust agreement in controversy. After reciting that the stockholders deemed it to their interest that all of their stock should be voted as a unit upon all questions affecting the business and management of the company and that Henry Ream had consented to hold and vote such stock on behalf of the stockholders, the agreement provided: * * *" In the body of the opinion appears the following:

"While the pooling of the stock for the purpose of electing directors and officers and controlling the management and business of the corporation is not necessarily illegal, an agreement the purpose and effect of which is to permit the affairs of the corporation to be managed by the determination of persons other than its stockholders or by a minority of its own stockholders is invalid. (Shepaug Voting Trust Cases, *supra*; Kreissl v. Distilling Co. of America, 61 N. J. Ey. 50; White v. Thomas Inflatable Tire Co., 52 id. 178; Warren v. Pim, 66 id. 353; Bache v. Central Leather Co., 78 id. 484; Morel v. Hoge, 130 Ga. 625; Harvey v. Linville Improvement Co., 118 N. C. 693; Bridgers v. First Nat. Bank of Tarboro, 152 id. 293.) The principle to be deduced from these cases is that the holders of the majority of the shares of stock in a corporation may control its management, and every person who becomes an owner of stock has a right to believe that the corporation will, and to insist that it shall, be managed by the majority; that the power to vote is inherently attached to and inseparable from the real ownership of each share, and can only be delegated by proxy, with power of revocation; that each stockholder must be free to cast his vote, whether by himself or by proxy, for the best interest of the corporation, and that each stockholder has the right to demand that every other stockholder, if he desires to do so, shall have the right to exercise at each annual meeting his own judgment as to the best interest of all the stockholders, untrammelled by dictation and unfettered by the obligation of any contract."

This simply dissolves a voting trust that has been voted to extend over twenty-five years during the life of the voting trust. Certain persons had acquired rights to the extent of twenty-seven shares more than the majority,

and when they demanded their shares of stock they were confronted with the answer, "you have voted in this corporation a voting trust, and Mr. Cahill will vote for your stock for you," and they demanded from the courts and received from the courts with the approval of the Supreme Court of the State to do that thing which is right to do, and was retained in the Constitution of the State of Illinois, in which I believe sincerely and honestly, that there is the right of any association of individuals to associate themselves together and transact their business in this State, but it is a restriction and safeguard placed upon those persons who have no such interest in the corporation, and that it requires that every share of stock shall be represented in the voice of the corporation, that determines its policy and manner in which its business shall be conducted, and preserves the interests of the small and large stockholder. If it is true that this section of the statute forbids articles of incorporation which allow non-voting preferred stock to be issued, it is a question of policy whether that should be, and the Supreme Court of Missouri passes directly upon the Constitution, and the provision in their Constitution is identical, verbatim, with the provision of this section, held, that that provision did not forbid by a contract the adoption of by-laws by a corporation seeking to incorporate itself which provided non-voting power to preferred stock, and I believe in the absence of a decision in Illinois that that will be the policy of this State, and I believe we have succeeded in transacting the business of Illinois for fifty years under this provision without any undue hampering of our business, and that the provision is a safeguard in the Constitution, it should be retained in the Constitution, and I agree with the gentleman from the Secretary of State's office if we wipe out this safeguard, we have no guarantee that the legislature will continue the act now on the statute books of Illinois, because we will say to them we have wiped out this provision in order that you might repeal the law, and we would open the way and invite the approval of having the laws on the statute books repealed and the way opened for corporations to associate themselves and individuals together in Illinois in corporate capacity under any rules they themselves may choose. Gentlemen, I do not believe that is the proper theory for this Convention to adopt, and I sincerely hope we will retain in the Constitution this meritorious provision.

Mr. GREEN (Champaign). Illinois has done a great many good things under this Constitution and will continue to transact the business of the State whether this stays in or goes out of the Constitution. Everybody, of course, is proud of his own home town and is always proud of its accomplishments. Every reform comes about with some sacrifice of personal interest. Some of the arguments with reference to the time-honored customs, the antiquated system, the corporation system in Illinois, reminds me of the story that a noted evangelist told of his effort to civilize the heathen, and in conversation with the chief of the tribe tried to get him to embrace the religion of Christ, and he said to him that his country would be better; that he would bring to him more blessings, that he would be more prosperous, and he received a reply in substance like this: "Why, I could not think of deserting the religion of my mother; the last time I saw the dear old lady she was sitting with her back against a tree eating a piece of cold missionary, and that is a part of our religion."

The law of Illinois with reference to the organization of corporations is absolutely out of date on one or two questions. Now, it is with a little bit of concern that anybody discusses these questions in these days, because it seems when you say "corporations," there is something about the term that invites the suggestion that you are representing something that is dishonest. It has been a thing that some folks have sort of shuddered to mention, and it is amazing to me the lack of information with reference to some of the fundamental principles of business and industry that prevail in Illinois, and that are hampered by outgrown provisions of the Constitution and the statutes, that have prevented at least the treasury of the State from receiving moneys that have been going all over the United States for fifty years.

Now, I believe we are pretty well acquainted, the members of this committee are pretty well acquainted with one another; we know a great deal

about one another and we have all, I believe, come to the conclusion that every man in this Convention is honest, and he has the same high purpose, and I feel the misfortune existing in the minds of some of the gentlemen that has existed since we began talking about a Constitutional Convention with reference to this matter of the organization of corporations, the very distinguished gentlemen who have spoken from Cook county on this subject have really talked over the heads of some of the members of the committee. They have talked about the rights of individuals to associate themselves together by contract, and I do not believe that that has been fully understood, and I pray your permission for just a minute in the most simple way I have the ability to command to discuss in the most fundamental and simple language the A, B, C of corporate organization in Illinois.

Some of us come from coal mining districts, from districts where they have elevators; some of us come from districts where there are many manufacturing industries, some of us come from where they have department stores. If you are a lawyer ask yourself this, if you are not, ask a lawyer in whom you have confidence, how you would organize any of these lines of business in Illinois under the law of Illinois by taking from the rich man the contribution of his capital and giving him preferred stock for it, without turning over to him the management of your business, and if he can tell you how to do it, if the amount authorized is fifty-one per cent of the value of your business, then this thing might stay in the Constitution, but the A, B, C of this question is, that in Illinois today you cannot borrow money from a stockholder and give him preferred stock as security without giving him the same pro rata control in the business that the common stockholder enjoys. Now, another thing in Illinois, under the leadership of our courageous Governor, we have authorized the organization of corporations with no par value of stock. Lawyers differ; my humble judgment is, and I understand from the remarks of the distinguished delegate from Cook that he holds the opposite view, but my view is, if you have one share of no par value stock and another man has a share of preferred stock, that they shall have equal voting power in the choice of directors. It may be by some means to increase to a tremendous amount the number of shares of no par value stock, we can get around the crippling influence of the Constitution, but that invites fraud, and this thing in the Constitution of Illinois has invited fraud. There has been something said about a voting trust. I have in my memory in the last twelve months a situation where with my good friends I invested a little bit of money and where they had invested a great deal, and they were saved from financial ruin because we put our stock together in a voting trust and we kept some stockholders who were trying to get hold of a majority of that stock from getting it, and we held a majority interest and we finally sold it for what it was worth, when it would have caused the financial ruin of these gentlemen had they not been able to organize a voting trust, and select three of the members to hold the stock. When it was sold it brought a fair price and it was sold to the minority stockholders at what it was worth.

There is a great deal of talk of fraud in Delaware. Wherever great numbers of transactions occur there will be some fraud. The reason there is more crime to the square mile in Chicago than there is in Champaign county or Mt. Vernon is because there are more people there, but of course the ratio may not be as high, but the remarks made with reference to the State of Delaware are well directed to some corporations organized in that State, but I know of corporations organized in Delaware by force of necessity, because they could not organize under the law of Illinois. What does this mean? It means that today all shares of stock, both preferred and common, shall have an equal voice in the selection of directors, and when the man who puts in his money and takes preferred stock has the same interest and the same power, share for share, as the man who takes common stock and all the risk, that is not to the interest of the common shareholder. If I am a poor man and my friend is a rich man and I am willing to give him preferred interest in the company so he will get his money first and be satisfied to take eight per cent dividends on it, and he is willing to give me all the chances to make all the profit there remains after he re-

ceives his money, should I not have the right to manage that business so long as I am able to pay him eight per cent dividends? You cannot do it now because if he owns as many shares as you do, he manages the business, or if he owns one more share than you do. The A, B, C of this provision in the Constitution prevents a charter being issued, or the legislature authorizing a charter to be issued which will allow you to get capital into your business, and give it preferred stock and at the same time control your business. I thought everybody knew that, but it is manifest there were some who did not.

With reference to this cumulative voting of these shares, there are some corporations that should be allowed to do that. It has been suggested that banking corporations should because there is a double liability on the shareholder. I think that suggestion is right, but that belongs in the legislative department of the government for this reason: there are some other kinds of corporations in which they ought not to be allowed to cumulate the vote. Think of your elevator associations, think of the number of your co-operative associations, your building and loan associations, things of that kind; you can name innumerable associations of that kind by which a group of eight or ten men outstanding in the community expect to manage the business of the company, expect to be the shareholders, but it may be that they would not obtain a majority of the stock of the company from the great number of small shareholders, and the situation would be such that they could finally drive from control the real brains and capital if they could cumulate their vote. When we commence to enumerate the cases where this should not be done we go on ad infinitum. I do not think that means that the General Assembly should by law provide that the corporation should itself, when it takes its charter, fix the terms on which its people enter, whether they cumulate their stock or not. I am trying not to use any personal reference in this, but in Illinois this year I happened to have something to do with the organization of a company in which we issued two hundred fifty thousand dollars of common stock. We issued two hundred fifty thousand dollars of common stock under the laws of Illinois, and there was no opportunity for a number of men to put in two hundred fifty thousand dollars to take preferred stock because they had confidence in this enterprise, so what happened? We had to abandon our Illinois corporation and go over to Michigan and organize under the laws of the State of Michigan, abandon our Illinois charter in order to accept the two hundred fifty thousand dollars of capital that the men were willing to put into the business without any voting power. We paid the State of Michigan a fee; we could not pay it in Illinois. It ultimately developed and had its great sales agency in this State, but was driven from this state and went to Cleveland. It is not a question whether or not there may be some dishonest corporations. We have some real estate men in our town who are dishonest, but we do not want to put something in the Constitution so it will make it impossible to do business, because we have some honest real estate men, too. We have some lawyers that are dishonest, but we do not want to regulate them in the Constitution. The gentleman from Mercer who refers to this case in the 270th Ill., started to read after he got by the place where it is in point. If he will commence to read on page 178, he will find that the court said that these men could not deprive themselves of this power. These men could not deprive themselves of the power to vote and allow us to control the company, and they could not make that kind of a contract in Illinois. We could have mortgaged our property for two hundred fifty thousand dollars, and we sat in solemn council for two weeks deciding whether we would do it and finally we decided we would leave Illinois and go to Michigan, where we could make a contract with these men. We did not have to mortgage the plant and agree they would accept their dividends, and if something happened they went over one period we would not go into bankruptcy.

It is said that a voting trust is vicious, and yet in this case the court said, "The stockholder may refuse to exercise his right to vote, but he cannot deprive himself of the power to do so." If a voting trust is wrong then it ought not to be the law that he could waive it if he wants to or refuse to

participate in it. In the State of Illinois he must do that. The A B C of the question is, if we want to depend upon the integrity of the legislature and depend upon our being able to continue to elect the stalwart men that now sit in the office of Secretary of State and his able assistants, in the Governor's chair, men who administer the laws of the State of Illinois so that the dishonest man does not have an opportunity to impose on individuals, but at the same time we want to give opportunity for our people to contract together so we may develop our own industries under our own laws and not be driven from the State in order to do the very same thing that we want to do in Illinois, we ought to strike this out of this committee report.

Before I sit down I want to say this: I said at the outset there is always some criticism attaches and some remarks are made, and some folks are scared of the newspapers because you say the word "corporations". Gentlemen, there is no lawyer in this convention who has been in business long enough to really grasp the real opportunity to do big things, but who invites the opportunity to be associated with enterprises and industries of that magnitude that concerns multitudes of our people, that offer the opportunity for the organization of individual capital under a charter of the state to do big things. I admit that there is not enough advertisement to the details of their business so that everybody gives them credit for what integrity they possess, but as for me, I have never seen the day that I did anything for a corporation I was ashamed of doing, and I think it is the fact that there is no man sitting in this convention that would ever do anything for any corporation organized under the laws of Illinois, Delaware or New York, or wherever it may be, that he would have to apologize for but if he has any ambition to take the economic sources of wealth in this country and put them together to do good for the people, he must realize he must make himself a target for some folks who cannot understand that those things are necessary, and that after all they are productive of great good, and there is no apology for the fact a man may defend the integrity of the gentlemen at the head of the big enterprises honestly conducted, and as has been well stated, we have four hundred of them recognized by the Secretary of State as being fit to be invited in Illinois that could not even take their birthright from the state. It seems to me there must be something the matter with things when that is true. Let us not misunderstand the real motive behind the distinguished gentlemen who have urged that this be stricken from the Constitution. There is no check on the Legislature if they see fit to re-enact it, and the legislature would immediately take off the cumulative voting provision with reference to certain kinds of corporations, and they would immediately allow that kind of organization that would enable us to contract together and take capital without mortgaging our property because somebody had sufficient confidence in us, and who would be satisfied with his dividend instead of wanting to manage the business.

Mr. MIGHELL (Kane). There has been several brilliant addresses on this question this afternoon, but I fail to see where we disagree substantially in this matter, from the arguments that have been made. The trouble seems to me to be, or the misunderstanding seems to me to be in the fact that this article is a sort of double header; this article that says that you cannot associate together to form a corporation and issue stock that does not have voting power, and which also provides that the stock shall vote in a certain way. I believe practically every one of us will concede that this state should be progressive enough to allow individuals to associate together and form corporations and issue stock of different classes, stock that can vote and stock that cannot vote. I disagree with the distinguished member from Chicago who made this motion to strike. I am very much opposed to having it stricken out for the reason it protects the minority stockholder. I know of many directors in corporations in this state representing a small fraction of the ownership of the corporation. They are sitting in as directors to protect those minority stockholders. Probably half

the men in this room are acting in this capacity or in another. Some of us are acting in that way in several corporations. I would hate to see the minority stockholder unprotected. There is another proposition coming up directly, and that is that the farmers in their co-operative societies to be able to have one member have one vote instead of one vote to a share.

Mr. GREEN (Champaign). Our fair association wants to do that, too.

Mr. MICHELL (Kane). I am going to suggest as a motion, as a substitute, if it is agreeable for his motion to strike, a motion to amend, and if you will follow the text, which is section two, I would like you see just how I propose to amend this section. On line two of section two after the word "companies", I ask in my amendment to insert the words "other than co-operative societies". In the same line after the word "stockholder" insert the following words: "whose stock by charter or contract has at the time unrestricted voting power". This will accomplish everything that is desired, in my opinion, and ought to satisfy those who wish to have different classes of stock issued, and others like myself who wish to see the minority protected. It will also take care of what our farmer friends wish to have inserted in this provision. This means a co-operative society can issue stock that can vote any way they want to vote.

Mr. GREEN (Champaign). You prevent the right of preferred stockholders by contract of denying themselves the right to vote.

Mr. MIGHELL (Kane). I wanted it to apply to everybody except co-operative societies, because I want them to have the right to cumulate votes to protect the minority stockholders.

Mr. BARR (Will). Would it be necessary under your amendment to provide in the charter of the corporation affirmatively that the voting stock should have unrestricted voting power?

Mr. MIGHELL (Kane). I do not think so.

Mr. BARR (Will). If there were not some provision in the contract or charter itself giving the stock unrestricted voting power, then all the stock of the corporation has voting power. It occurred to me it was in the negative rather than the affirmative. It seems to me that was the effect.

Mr. MIGHELL (Kane). I do not think so.

Mr. DUPUY (Cook). I am in hearty sympathy with the amendment offered by Mr. Mighell but I have this suggestion to make. My suggestion would be to allow section two to stand just as it appears in the printed report of the committee, and then add these words on line nine of page two after the word "manager": add "and such directors or managers shall not be elected in any other manner unless such other manner of voting shall be set forth in the original or amended articles of incorporation, or covered by the contract between parties in interest."

Mr. RINAKER (Maccupin). It seems to me we will reach the desired end as to both propositions if there be inserted in line three after the word "proxy" the words "unless such right be restricted by charter or by contract." That leaves it open for your co-operative associations, your fair associations, or any others to provide in your incorporation your method of voting, and it provides also for the proposition that has been discussed by all these gentlemen.

Mr. MAYER (Cook). Let me suggest, if I may, whether you are strengthening your proposition if you then strike out the last sentence of that section so you do not have any conflict, that is on page two, "and such directors and managers shall not be elected in any other manner." Otherwise you will have a possible conflict.

Mr. RINAKER (Macoupin). That is not inconsistent. What does "any other manner" refer to? That would refer to two propositions, either as provided in this section now, or as you provide by contract or by stipulation in your articles of incorporation.

Mr. BARR (Will). Might not that prevent the filling of vacancies by boards of directors in case of death or vacancy in the board of directors if that clause remains in?

Mr. RINAKER (Macoupin). It has not done so in the last fifty years.

Mr. BARR (Will). I do not know that the question has been raised.

Mr. RINAKER (Macoupin). If it has not been raised in fifty years, I do not think it will be raised any time hereafter.

Mr. GREEN (Champaign). If the clause were stricken out, wouldn't it make it absolutely clear?

Mr. RINAKER (Macoupin). In conversation, before any substitute was offered, I suggested that that clause be stricken out. I am not objecting to it; I do not think it would be serious, for the reason that that would simply exclude any other than the two methods provided.

Mr. GREEN (Champaign). You never can tell what complications are going to arise in the future with the operation of that new form of security.

Mr. RINAKER (Macoupin). I see no objection to striking out that clause.

CHAIRMAN FYKE. The question is on the amendment offered by Mr. Mighell.

Mr. JARMAN (Schuyler). It is now past six o'clock and this is a very important matter, and I move that the committee rise, report progress and ask leave to sit again.

(Motion lost, 31 to 14.)

Mr. JARMAN (Schuyler). I raise the question of a quorum. This is too important a matter for us to vote upon.

Mr. CARLSTROM (Mercer). The rules say when it is apparent there is no quorum it is the duty of the chairman to dissolve the committee.

Mr. GALE (Knox). I make the point that there is more than a quorum here, whether they voted or not. There are fifty-three delegates in this hall right now.

Mr. TODD (Peoria). I move you, sir, that we have a division of the house to ascertain whether there is a quorum present.

CHAIRMAN FYKE. I will say it appears to the chair there is a quorum present.

Mr. CARLSTROM (Mercer). I move you we recess until eight o'clock.

(Motion lost.)

Mr. CARLSTROM (Mercer). I asked for a division to ascertain whether a quorum is present.

Mr. DUNLAP (Champaign). Rule 50, having reference to the Committee of the Whole, says that the committee has the same powers as the Convention to enforce attendance of the members. You cannot enforce that rule unless you have a call of the house to ascertain what members are present. Therefore, a call of the house to ascertain what numbers are present would be in order.

Mr. GILBERT (Jefferson). I ask for a call of the roll.

Mr. WALL (Pulaski). I am for this amendment; I am in sympathy with a great deal that has been said in reference to this provision of the Constitution on corporations, but I believe it is inadvisable to vote on this question this afternoon, in view of the temperamental exhibition we have seen here and the fact there is some doubt whether or not there are fifty-three persons here.

Mr. DUNLAP (Champaign). I will ask for a call of the roll. The rule says you cannot have a call on the ayes and noes, but you can have a call of the house.

Mr. TRAUTMANN (St. Clair). I do not think there is any question but that you can call the roll to ascertain whether there is a quorum present. The rules of the Convention apply to that extent.

Mr. WALL (Pulaski). We have a precedent for it, because we did that once before.

Mr. SHANAHAN (Cook). I do not think it is fair to some members who remained this afternoon and who left to take a late afternoon train for their homes to at this time have the roll called and have it appear that certain members who were here all day are not here now. I now move that the committee do now rise and report progress.

(Motion prevailed.)

(President Woodward presiding.)

Mr. FYKE (Marion). The Committee of the Whole reports progress and asks leave to sit again.

(Report adopted.)

Mr. GREEN (Champaign). I move the Convention do now adjourn until Tuesday morning at ten o'clock.

(Motion prevailed.)

Whereupon an adjournment was taken by the Convention to Tuesday, May 25, A. D. 1920, ten o'clock A. M.

TUESDAY, MAY 25, 1920.**10:00 o'Clock A. M.**

The Convention met pursuant to adjournment.

The President in the chair.

Prayer by the Chaplain, the Reverend John H. Ryan, Pastor First Methodist Episcopal Church, Kankakee, Illinois.

THE PRESIDENT. The Journal of Wednesday, May 19, 1920, was placed on the desks of the delegates at the last session of the Convention and is now subject to correction. There being no corrections proposed, the Journal of Wednesday, May 19, 1920, will stand approved, and it is so ordered.

Whereupon the Convention proceeded upon the order of special orders of the day, reports of standing committees, reports of select committees, introduction of proposals, first and second reading of proposals, motions and resolutions, unfinished business, and general orders of the day.

THE PRESIDENT. Under general orders of the day stands the report of the Committee on Corporations, which is now ready to be taken up. The Convention therefore will resolve itself into the Committee of the Whole for the purpose of hearing the matters on general orders. As chairman of the Committee of the Whole, the chair designates Delegate Fyke of Marion county.

(Chairman Fyke presiding.)

CHAIRMAN FYKE. The committee will be in order. The clerk will read the minutes of the preceding session.

(Minutes read by Secretary.)

CHAIRMAN FYKE. The question is on the amendment submitted by the gentleman from Kane (Mighell).

Mr. ELTING (McDonough). I think this Convention should hesitate and pause before they strike this section from the committee's report. As yet no good reason has appeared why this should be stricken out. It has served a useful purpose for fifty years. It has given the corporation law of Illinois a standing and solidity among the other States of the Union. Since this law has been in our Constitution I think fifteen States of the Union have adopted exactly similar provisions in their Constitution. Even Pennsylvania, one of the largest corporation states in the Union, has this section verbatim in its Constitution. The question is, why do these States have this provision in their Constitution? I think the Supreme Court of Illinois has laid down plainly why this provision should remain in the Constitution of Illinois and why it has been adopted by some of the best States in the Union. The Supreme Court of this State says that it is against the policy of our law for an individual or stockholder to barter away his right to vote. That one sentence in the Supreme Court decision should be enough to recommend that section to the Convention and be sufficient for us to retain it in the Constitution for another fifty years.

It is said by the eminent delegate from Cook that he objects to this section because it gives the preferred stock a right to vote. Gentlemen, is that any reason why that should be stricken from the Constitution? As has been said by another delegate from Cook, and not disputed by the speaker, corporations are a great benefit to the country, to develop the resources of the country, and without great corporations possibly many of the great resources of the country would not be developed. But corporations are formed to invite aggregations of capital and ability, to develop these resources. How do men organize a corporation? When men organize a corporation they get prominent men to subscribe for stock and they go to their fellowmen, the man of small means, if you please, and they are invited to join this corporation and buy stock. Well, they say the charter is issued

by the great State of Illinois and it has not taken part in any scheme to help defraud innocent purchasers of stock. What is the result? John Smith buys stock because John Jones is a stockholder in that corporation, because he knows Jones to be an honest man, and he knows the other stockholders to be honest men, and with this understanding he buys a few shares of stock in that corporation. Now, what does this section do? This section is like a brake on your car, when something goes wrong with the machinery you can put on the brake and stop the car until the break is mended, and then go on. That is all it is. It simply says if you buy a share of stock, and the Supreme Court says, after you own that share of stock, it is contrary to the policy of the law of this State for you to give somebody else the right to vote that stock contrary to your will or desire, now, what is the harm of that?

There is a question of fiduciary relationship existing between stockholders, and I want to read you a little of that extract from the 270th Ill.: "Section three is not entirely for the protection of the individual stockholder himself, but to compel a compliance with the duty which each stockholder owes to his fellow stockholders to so use such power and means as the law and his ownership of stock give him that the general interest of the stockholders shall be protected and the general welfare of the corporation sustained." It also says, "To see that the company's business is conducted by its agents, managers and officers, so far as may be, upon prudence and honest business principles, and with just as little temptation to the opportunities for fraud and seeking of individual gains at the sacrifice of the general welfare as is possible." That being true, what is the trouble with section two? It simply says, that after you put your money into a corporation you have a voice; it don't mean the minority stockholders can get control of the corporation, but they can accumulate their funds so they may have a representation on the board. It seeks to obtain just the same protection that the co-operative associations seek to obtain under our statute, by only giving each member five votes, so no individual can control the corporation. No objection to the majority controlling, because they have the right to control, but they have not the right to say that the minority cannot sit on the board of directors and know what is going on. Now, the delegate from Cook argued strenuously upon the fact that on account of the voting power of the preferred stock he was obliged to go to some other State to have a charter issued to suit the people organizing the company. As long as time lasts there will be some men, I do not care how you frame your Constitution, as long as time lasts there will be some men who want to go somewhere else to obtain privileges that they cannot obtain at home.

I do not think Illinois wishes to stand in the way of any of its citizens. I do not think it is the intention of this section two to stand in the way of any of the citizens of the State of Illinois. It is there to protect the interests of the stockholder, and if you can tell me any reason why a man that owns one share of stock in any corporation, I do not care what kind it is, if you can give me any reason why that stockholder should be denied the right to vote, and the Supreme Court comes to his rescue and says the stockholder cannot contract his right to vote away to someone else to vote differently from his will.

The next suggestion that the delegate from Cook makes is that on account of this section in the charter the State is losing vast sums of money because corporations are formed in other states, and we should place more inviting terms in our Constitution to invite all kinds of corporations to our State, regardless of merit, so that we might obtain the filing fees. I tell you, gentlemen, that is not the policy of the great State of Illinois. Illinois is not bidding for money that way. Illinois has the men and the resources, and Illinois has the ability to make all the money that the people of this State require, and all they desire, if you please. So there is nothing in that argument. Would you sacrifice the honor of the great State of Illinois to get a few paltry dollars? Is not that the argument on that point? Then they come and say, if you leave this in the Constitution it will greatly hamper and hinder our farmers' co-operative associations, our fair associa-

tions and our building and loan associations. I have never known of but one case where this section was used in regard to building and loan associations, and that was over in Macomb. We have one of the best building and loan associations in the State over there, but the people with money who loaned their money through the Macomb Building and Loan Association did not want to let the members know just exactly what they were doing, so the minority fellows organized and put a man on the board of directors, and they found after they got on there that everything was all right, everything was going fine, and there was no trouble whatever. There is one instance I know of of great benefit accruing from the fact this was in the Constitution, and I think there are members in this Convention who can tell you of other occurrences, and I expect ninety-nine times out of a hundred this is not invoked. It is only when the car begins to slip, or the stockholder imagines it is slipping that he has the right to ask and get a representation on the board of directors that he may know, and if anything is wrong that he may take steps in time to protect not only his interest, but the interests of other stockholders. I see no wrong in it. If these gentlemen can get any satisfaction out of the 270th Illinois, they are entitled to it. That simply says if a man has a share of stock he has a right to vote it, and vote it as he pleases, that he cannot contract the right away, not only on account of his own interests, but the interests of his fellow stockholders.

One of the speakers said three of you gentlemen might desire to form a corporation; I am here to tell you that if three of you men would form a corporation I would be one that would like to get in, because I believe you are all good men and I put my trust in the personnel of the men that are going into that company, and would feel that after I had come in, put my savings into that corporation, that you gentlemen would not violate the trust that is imposed upon you under the laws of the State of Illinois.

Now, I do not see that this even makes any hardship upon the co-operative associations, and I say here that I have been a farmer all my life, and I for one don't want any law different for the farmer than for any other person in the great State of Illinois. The farmers as a rule do not ask it, and if they did it they are not entitled to any different consideration than any other citizen in the State, but we are entitled to equal rights under the law. If a farmer has a share of stock in a corporation, he has the same right as the banker with his share of stock in the corporation. And the farmers as a rule are good fellows; as long as the other fellow runs the business all right they do not have any complaint. It is hard to get enough of them to attend the meetings to elect a board of directors. Why? Because they have confidence in the men running the concern. I think this law does not interfere in the least with co-operative associations. Illinois has a law regarding the organization of co-operative associations, and it forbids any one person owning more than five shares of stock in one company. This provision is inserted for the purpose of preventing any one individual from controlling a co-operative company. The object sought by the legislature in limiting the number of shares of stock in order to prevent anyone from controlling the company is not interfered with in the least by the requirements of section two of the majority report regarding cumulative voting. It attains the same end in a different way. Under the cumulative voting it would be impossible for a minority stockholder to control the company either in a co-operative association or regular corporation where the shares of stock are not limited, but in each case would serve as a safeguard. Cumulative voting is rarely used unless there is something wrong in the management of the company, and the effect is to give the minority stockholder the right to be represented, to ascertain before it is too late the trouble, if any, so he can properly protect his interests.

Now, that is the situation. There is nothing in this section but what is fair and honest, and I am afraid, gentlemen, of these amendments suggested. I think you would just as well write in the Constitution that the great State of Illinois recognizes voting trusts, you would just as well say that as to put into the Constitution that you can put anything you want in

the charter, or by contracts, that is limiting this section, making it subject to contract and to the charter.

. Now, to be fair, gentlemen, this section only operates upon stock that is issued; if you want a class of stock that is not entitled to voting power, and another section in the Constitution in reference to preferred stock to provide, if you please, that if they be entitled to vote, after two defaults are made—I think in case of mismanagement, I think the man who furnishes the money should have a chance to come in and see that things were running properly, and that is as far as the effect that this section has gone, in my opinion.

I have never known of any trouble being made by this section, but I do know of instances where the minority was able to get inside information as to the management of the company and was perfectly satisfied after it had the information. They found they were doing the best possible under the conditions, where, if you had shut the door absolutely they would probably have had to appeal to the courts in some way to find out, and we all know if there is anything that hurts a corporation it is to drag it into court.

We have been here for several months, and I for one have to hear from the first person, the first man in business prior to the time we entered upon discussion of these reports that was opposed to this section. Even our bulletins here, the men that prepare that bulletin on page 1176 say, that if you retain this section in the Constitution it is important that you retain it just as it is, and they are good men who prepared that. Even those men cannot say one word against that section, and I for one have to read the first man prior to the time we entered upon the discussion of this committee report raised his voice to say there was anything obnoxious in the provision of having this in the Constitution. To be sure it is a limitation upon the legislature, but that limitation is for the common good, for the good of the people of the State of Illinois. Now, I know something about how large corporations are formed. Men have ideas, as the delegate from Cook says, and we have immense resources; they have the know-how, but they have not the money to put in the corporation. They organize a corporation and they sell stock and get the money, and after the stockholders have furnished the money, is it right that they should be denied the right to participate in the business of the company? The Supreme Court of the State of Illinois said no, they said it was against the policy of this State to permit even a stockholder to bargain his right to vote away. I insist that we should adopt this section as it is. I say to you the amendments proposed to this section are extremely dangerous, and up to date I don't know of one instance where it has hampered in forming a great corporation in this State. We have a lot of good corporations in Illinois, and the business of the Secretary of State's office is increasing. Why? Not because we extend privileges that other States do, but we have a sound administration in our Secretary of State's office that is insisting upon at least, gentlemen, common honesty, and anybody that is in favor of common honesty will never turn away from section three, is my humble belief, if he understands the section.

As I said before, first, there is no reason why a man should not vote; the second is, it is against the policy of the State for him not to vote or allow anybody else to dictate how he should vote contrary to his will, and the third is, the section has been in the Constitution for fifty years, and during the fifty years I have not seen a newspaper article even condemning that section. I never heard a public speaker condemn it or a layman condemn it, but on the other hand, I have heard men sound its praises, simply because it entitled them to learn the facts about their own business. I know there is a tendency, and as has been stated on the floor here, that a man will not put his money in a big corporation unless he can control it, but the same rule will apply to the fellow who puts a small amount of money in; that is the principle and policy of the great State of Illinois, to do equal justice to all, and I sincerely hope, gentlemen, that we shall not depart from that policy.

There is very much to be said on this question, but after it is all said and explained it resolves itself down to the simple facts that if a man holds a share of stock under the laws of the State of Illinois he is entitled to vote that share of stock, and this section gives him the right to cumulate the vote on that share of stock so if he is in the minority he can unite with somebody in his efforts and elect a director and have some voice in the management of the company. That is all. I do not care anything for the niceties of whether it is legislative or the legislature could do the same thing. We are here legislating, if you please; that is, we must legislate to sustain the high honor and station of this State, and if it is our duty, why do we want to "pass the buck" to the legislature, changing, as it does, every two years? When we are asking to put something in there absolutely sound, I do not care whether it is a legislative or constitutional subject, it is a limitation, and that makes it constitutional, and we have a right to put it in, and I sincerely trust we will leave it as it has been for fifty years. Now, the rule of law governing this is so simple and plain and the facts surrounding it are so easily understood, it seems useless to take time in discussing the merits of this section, when the demerits that have been brought against it are not controlling. Some of the eminent men in the Convention of 1870 said this was a grand thing, a good section of the Constitution, and should go in, and they had no personal interest in the matter, and I have no personal interest only to see fair play in the interest of common honesty to all. I thank you. (Applause.)

Mr. GORMAN (Cook). It is not my purpose to take up very much time in discussing this section, but I am afraid that my learned friend from McDonough (Elting) has been shooting considerably wide of the mark, because we have not now in contemplation the striking out in its entirety of the present section three of the article on corporations. The amendment that we are now considering, which has been introduced by the delegate from Kane (Mighell) simply makes it possible for holders of preferred stock in corporations to contract away the right to vote that stock. I think that is a reasonable thing to permit preferred stockholders to do, because we want a corporation to serve its best end in the way that its directors think that it will. Now, in regard to the matter of being contrary to the policy of the State for a director to contract away his right to vote, I do not believe that the delegate who has just spoken would find any fault with the law which permits a person to make a gift of his property under the rule of gifts *inter vivos*. If that is true, that a man can give away his property as he see fit, why should not he be permitted to give away some right that is incidental to the ownership of his property?

In the organization of a corporation, several things are necessary, as has been stated here on a previous occasion. First, you must have the idea. Then you must have the capital to put the ideas into execution, and generally the inventor, the one who holds the patent, is a man without any money, and in order to be able to attract men to the formation of a corporation that will put into execution the idea that has grown out of his fertile brain, it is necessary for him to make some considerable concession to them, but still he does not desire to lose control of the corporation, because if he does, then the idea he has evolved will suddenly be taken away from him, and all his right and interest in the property of that idea will be gone, so we ask men who are going to contribute some money to the organization of a corporation that is going to develop the idea of the inventor that they refrain from voting their preferred stock. I think that is a very reasonable thing to ask of them, and it is not going to result in the organization of a great number of fraudulent corporations, as some of the gentlemen seem to anticipate. We have a department of state which in the exercise of its functions will see to it that no corporation that is not bona fide in its principles and its aim will be permitted to dispose of any of its securities. The organization of a company is one thing, the disposal of its securities is another, and I think it is only fair and reasonable to permit men to contract away the right to vote as is now contemplated in the amendment of the gentleman from Kane. Certainly there is not anything seriously

wrong with that idea. Certainly not, when men are permitted to give away their property without any consideration, if they see fit. Why, then, should they not be permitted to give away, or contract away, a right that is incidental to that property which grows out of the ownership of that property? And as I said on another occasion, I think the fact that 432 foreign corporations have been permitted to come into this State and obtain a license for the purpose of carrying on their business within the last ten months, has amply proved that this law ought to be changed so that these big corporations, these concerns that have been organized for the purpose of carrying on a bona fide business might have their birth in this State rather than have to be compelled to go to a sister state and there become organized and later come into the State of Illinois to do business. There is nothing wrong at all in the amendment that is contemplated, but on the contrary, I think it is going to serve a very good purpose. In fact in 1916 the Attorney General of this State in order to carry out the intent or intentment of this proposed amendment gave an opinion that corporations could do the very thing that we are asking that they now be permitted constitutionally to do, and the learned delegate from Cook the other day, when this matter was under consideration, said that the opinion of the Attorney General was not a legal and correct one. If that is true, and if the aim, or rather the end that is sought, and has been sought, as the opinion of the Attorney General has shown, is to give this right to corporations so that preferred stockholders, if they see fit may invest money in a corporation and still contract away the right to vote, then I think it is only fair and reasonable that this amendment ought to be carried in the manner in which it has been proposed by the delegate from Kane.

Mr. GILBERT (Jefferson). I rise chiefly for the purpose of discussing what I conceive to be the logical and inevitable effects of the proposed amendment of the delegate from Kane (Mighell). I ask the members of the committee for a few minutes to go along and consider with me the effects, the absolutely certain effects, whether they were intended or not I don't know, that are sure to follow the insertion of the proposed amendment of the delegate from Kane. Evidently the last delegate who addressed this meeting has misconceived the effect of that amendment, at least in part. There would be no objection on my part to saying that the right of the holder of preferred shares to vote should be deferred until one, or possibly two successive defaults in the payments of the dividends on the preferred stock, but certainly the man who furnishes capital to make the wheels go round should have the right to assert voting power as and when the management of the business fails, but gentlemen, the effects of the amendment offered by the delegate from Kane is far reaching. It goes beyond anything in any Constitution in any State. I have been searching, and I have been unable to find, gentlemen, where any State in the Union, not even Delaware, has inserted in its Constitution an approval of the voting trust, by which a small minority may dominate and control the entire corporate affairs of a business, and the effect of this amendment is to do that very thing. Bad as it would be to strike out in toto section two as proposed by the majority and minority reports, which was section three in the present Constitution, bad, in my judgment as that would be upon the State of Illinois and its high standing among all the States of the Union for corporate fair dealing, the proposed amendment is a thousand times worse, and I want you to follow the language and apply it yourself.

I will say I am not very much concerned as to what is done with co-operative associations, if they want some special provision as to voting, I don't see that it would do any particular harm, but the great point is to preserve a sound foundation for fair dealing among stocks and securities of corporations. If you will get your Proposal No. 364, which is the majority report proposal, it has been proposed by one of the delegates to insert after the word "stockholder" in the second line, the following language: "Whose stock by charter or contract has at the time unrestricted voting power." What does that mean? The stockholder shall have the right

to vote provided he has that right to vote when the stock he holds, by a charter or contract has and retains voting power, and to those not members of the legal profession I want to make this point clear if I can, that this provision allows a minority to control. "The General Assembly shall provide, by law, that in all elections for directors or managers of incorporated companies, every stockholder whose stock by charter or contract has at the time unrestricted voting power shall have the right to vote"—it has unrestricted voting power, if it is not restricted by contract. This is the amendment, gentlemen. We are making a Constitution; if it is restricted by any sort of an agreement, either before or after the incorporation it cannot vote. If that agreement is in the charter in the first instance you have no voting power. If you insert it in the charter, as is done every day in Delaware, probably three-fourths, nine-tenths of the holders of the shares of stock have no voting power. Why? Because it is restricted in the charter. I have seen a number of them, they are restricted in the charter—that is allowed by this amendment—you can contract it away by this provision either before or after the incorporation is completed. Now, do you want to do that, gentlemen? Does this Convention want to go further than any State in the Union and further than the State of Delaware itself and recognize and approve by indirection the voting trust, the voting agreement, the disfranchisement of stockholders whereby, as prevails in Delaware in the corporations ground out in that State, a small minority in many cases has controlled the corporation, and so it is magnonimous indeed to say we will concede to the minority stockholder a right to cumulate votes. What a great concession to the minority stockholder, when before you start you have not only wiped out any sort of effectiveness on the part of the minority stockholder, but you have gone so far as to tie up in the Constitution the majority of the stockholders. That will be the effect, gentlemen, of this provision, and if the State of Illinois and if this Convention is ready to commit itself to the voting trust, so vigorously condemned by the courts of Illinois and by three out of every four of the courts of the land where that question has arisen, I believe a great mistake would be made.

Most of the courts of the United States have condemned the voting agreement, the voting trust, and I hope you gentlemen who are not lawyers understand what the voting agreement is. Gentlemen, it is an agreement whereby a majority agree that certain individuals shall have the voting power of those shares of stock for a period of five, ten, twenty-five or whatever number of years may be specified, but does not restrict the sales and shares of stock thereafter, the shares of stock that participated in that agreement are sold until that majority becomes a minority, so if that agreement is effective, it is minority domination and minority control and ought not to be written in the Constitution of Illinois and is not written in the Constitution of any State in this Union.

Now, gentlemen, a little further: I hope that you recognize that corporations, and large corporations too, are not organized today like they were when you and I were little boys; a quarter of a century ago. When corporations were about to be organized and conceived, a number of men of means came together to organize that corporation, and they subscribed for the stock themselves. Now, the procedure is entirely different. The State of Illinois recognizes, and the last General Assembly recognized, that corporations now are and in the future will be many of them organized by going to the public and various persons all over the country and asking them to become subscribers. You come to Illinois, you go to the office of Secretary of State, you pay in one thousand dollars of capital and you then become a corporation. You want a ten million dollar corporation. Then you are organized to go out to the public, to the farmer and the laborers, to all the different people and ask them to take part of the stock of this corporation, the balance of this nine hundred ninety-nine thousand of this one million dollar corporation, and they make the par value of shares, five or ten dollars so as to make those shares within the reach of a poor man. They send out their stock salesmen, these people know nothing about a voting

trust, the common public know little about the right of stock to vote; they think a share of stock is a share of stock, and the balance of this is sold to the public and the capital for the corporation—some of them good ones—is obtained in that way, so a new age of inaugurating these associations has arisen, and it behooves the Convention and the General Assembly to go as far as they can in the protection of the rights of those who are not able to protect themselves.

It is said, let everybody protect themselves, put up no protective bars to help those who cannot protect themselves. If there is anything that the general public knows little about it is the subject we are discussing now. Let us safeguard the little investor by giving to him, when he puts in his ten dollars a right and a voice in that corporation, and let it not be taken away from him through the charter, whether it be in Illinois or in Delaware. If Delaware puts up a national sign and says to all these concerns "come here and get your charters," let Delaware have the business. The State of Illinois loses not a dollar in the operation. The treasury of the State of Illinois suffers the loss of not a single penny. Why? If that Delaware corporation wants to sell any of its shares of stock, and nothing more, or wants to conduct any of its business in this State, they have to file under the Foreign Corporation Law and pay to the Secretary of State upon the capital to be used in the business in Illinois the same rates that they would have paid in the first instance. Now, are we entitled as a State, and do we want as such to put ourselves in the position as a great State of soliciting, inviting and asking for corporate fees, on any capital that is not used in the State of Illinois, or whose securities are not offered for sale in Illinois? We will have had our fair share when we get that. When you ask more, we must show some looseness, some favoritism, or some relaxations as an inducement. I am opposed to the inducement, to holding out to any man or any corporation or any aggregation of men an inducement to come into Illinois and incorporate unless it is on a basis that is fair and sound. Upon this foundation of giving to every shareholder a voting power the corporations of Illinois have multiplied, until in the last ten months they have almost doubled the number of corporations that were organized in Illinois in the preceding ten months. I would rather have my corporation organized in Illinois, in a State that has a sound foundation, that says to all those that put their money into shares of stock that they shall have voting rights, and to this amendment, gentlemen, is dangerous. Whatever you do, gentlemen, I ask you as one who has tried to study it and has observed in a way the means adopted to vote down this amendment that proposes to recognize and endorse the voting trust or the provision that authorizes putting into the charter the denial of voting rights. What do the public that subscribe for stock issues know of the charter provision and the denial of their rights to vote? I have in mind two instances that came under my observation in the last few days that I think bear to some extent on this question. First, a twenty million dollar corporation organized under the laws of Delaware, if you please—ten million dollars common and ten million dollars preferred, not a cent paid for the share of the common, every dollar water, and admitted to be water by the men who organized the corporation; the other ten million represents the capital that has gone in to finance that corporation. Now, by this amendment you would say that the men who have put up the actual capital may be deprived upon the default of one or two successive payments of the right to assert a voting power. I do not think this Convention wants to do that. Another illustration, gentlemen, and it is this: I have in mind another corporation, it is a three million dollar corporation, and if I were to mention its name most of you would be familiar with it, which is also incorporated under the laws of the State of Delaware. It is all common stock; of the three million dollars of common stock five hundred thousand dollars has voting power, the other two million five hundred thousand dollars has no voting power, and it is a ten dollar par proposition; it is being sold in all the States of the Union except Illinois, at least most of the States of the Union except Illinois, to the workmen and the farmers and

unsuspecting. Do you want to invite that kind of business in Illinois? I hope not.

I have talked longer than I should, but if there is one thing I have an interest in—I am not opposed to corporations—it is the laying of a sound foundation for a square deal among men who become stockholders in a corporation. Let us not put in a provision that provides for short-changing the stockholder either at the inception or after the organization. This amendment provides for the short-changing at the inception by putting it in the charter, and provides for short-changing the stockholder afterwards by an agreement among those who, for that particular transaction, might be the majority, who afterwards would become a small minority, and therefore, establishing in the Constitution minority control and management of corporations. I have in mind an instance that came under my personal experience, where if such a provision as this had come in the business of the company would have been wrecked and ruined because the management of the minority would want to continue its control and its continuance would have spelled disaster, but because of the laws of Illinois allowing the stockholders the right to elect a new board of directors and put in charge a new management that corporation today, and it is one in which I have a few shares of stock, is a prosperous business, but if this plan is adopted in Illinois you tie the hands and leave it up to the judgment of the trustees who have the right to vote the shares of stock on the question of changing the management, and the stockholders have nothing further to say. I hope, gentlemen, that you vote down these or any other similar amendments. I had hoped that section two would be kept substantially and practically as reported by both committees of this Convention, and I trust, gentlemen of the Convention, that the committee that made the majority report recommending the retention of the section—and I must say I believe they submitted that in the utmost good faith—and they don't wish that section stricken out; the minority report asks that it be left in the Constitution. Now we are asked to brush aside the reports of both committees and it will be a strange transaction if we do, so let us leave this section as they say should go into the constitution. Both the minority and majority agreed to leave it as it is. If the co-operative people want something in a separate paragraph, let us give it to them if it is fair and right, and if it is desirable that this section have a provision added to it in about this language—which is simply a suggestion—but before I read this, to those who are not lawyers I want to explain, if you do not understand, what is meant by preferred stock. Preferred stock may not all be of the same kind. Sometimes a man who goes to Delaware comes back with so-called preferred stock. That is, preferred if a corporation makes any profit, which nine cases out of ten is unlikely, so it is not preferred stock at all—let us say this preferred stock is preferred as to assets and earnings; let us say so in the Constitution, and let it read about like this, after following section two:

“Provided, that owners of shares of stock having a preference as to earnings and assets shall not vote unless and until two successive defaults shall have been made in the payment of dividends on such preferred stock.”

Certainly preferred stock should have that much right, that after two successive defaults have been made in the payment of the dividends on the money, then let them have a right to raise their voice, and not simply stand as an idle spectator, as would be the effect if in the first instance or after organization the right to vote could be hampered, destroyed and taken away, that reserves as against all shares of stock, either by charter or by an agreement entered into afterwards. I say, in conclusion, gentlemen, I am sincere, that I do not believe that my good friend, the delegate from Kane, intends to put into the Constitution the effect that I believe, and as I say is perfectly clear would follow its insertion; I do not believe that any delegate would vote in this Convention to put into the constitution a provision that would have that effect. I thank you.

Mr. GALE (Knox). I have listened to a number of laudatory remarks on section two of the majority report, and the great protection it gives to stockholders, but I have seen no statement in the way that protection works.

Protection of minority stockholders by this clause is bosh. They never got any protection from this clause or any other clause except the one requiring stock to be fully paid for, until the legislature enacted and made the law as we now have it in the State of Illinois. The entire matter is legislative, and if we were drawing up a scientific constitution there is not one of us that would dare stand for that clause in the Constitution, because the entire matter is one to be handled by the legislature, and the legislature has shown, Mr. Chairman, in the laws recently passed, that the legislature can be relied upon to protect the investors in Illinois corporations beyond the protection afforded by the Constitution. If this clause must stay in the Constitution, if it has got to be a sop to convention, a bait to those people who think that because a clause has been in the Constitution for fifty years, whether beneficial or otherwise it ought to stay, then by all means let us have the amendment offered by the delegate from Kane (Mighell). The delegate from McDonough (Elting) talked about the men investing in a corporation because they believed in the honesty and ability of the gentleman he called John Jones. What happens under the Constitution as it now is? They invest in the corporation because they believe in the honesty and ability of John Jones, and they agree that John Jones shall run the company, and before long, for one reason or another, sell out their stock, and no contract can be made which keeps John Jones in control of the company, and the company is taken out after he has made a success of it and ruined, and all the delegates have one or two noxious examples in their minds where, because of these outrageous provisions in section two of this majority report, as it stands now in the Constitution, where a man who can run a company has been permitted to run it and made a success of it, and then bonds are sold on the face of what he has done, and then because the people cannot be tied up they have taken the control away from him and ruined the people who bought securities of the corporation. That is how much protection you get out of this outrageous clause. I am opposed to it for another reason: It is a straight discrimination in favor of the large corporation, in favor of the sort of corporations they can organize in Cook county and possibly in some of the other industrial centers of this State, which we in the counties similar to Knox county cannot do. What is the result in those counties? They come in to organize a big corporation in Chicago for instance and they object to this provision, and the attorney says "Incorporate in the state of New York, where they do not have any such provision, and then you come back to Illinois and comply with the Illinois law, which does not touch this thing, and the only difference will be the extra fee you pay in Illinois." Because of the great business which they do, that fee will not make any difference to them, that small payment, and they make it, but when they come into a town such as the towns in Knox county, or in most of the counties of the State to have a corporation organized, that fee does make a big difference, and they cannot take advantage of the provisions of the New York law, and we are unjustly and unfairly discriminated against, and we will be just as long as this clause stays in the Constitution.

They talk about the public policy announced in the 270th Ill. There is not a lawyer who does not know that public policy depends on the law, and that a court is not going to announce what public policy is until somebody has spoken who has authority in the law to speak, and of course it is against the public policy of Illinois, because the Constitutional Convention of 1870 declared our public policy, and the court has no choice except to enforce that declaration. If that declaration was not in the Constitution of 1870, that decision in the 270th Ill. would never have been rendered. There is not any ground, Mr. Chairman, on fairness, justice or protection to the stockholder or on public policy for supporting section two as it appears in the majority report, and it should be voted down.

Mr. CUTTING (Cook). I have no different objection to the clause as it stands except this legislative clause, and if it is to be in the Constitution, the question of cumulative voting is entirely in accord with my wishes in that matter, but this question of preferred stock depends upon an entirely different basis. I do not care to argue the question, but it is enough

to say that perhaps in these days of borrowing money by corporations, that is largely done through preferred stocks rather than notes or bonds, and it is a very convenient and proper method for doing that thing. I happened to know of at least three corporations already organized in Illinois, that because they were not permitted to issue stocks of that character which would be non-votable, simply surrendered their Illinois characters and went elsewhere. They did not go to Delaware nor any of those States in which patent constitutions are supposed to be given, but to other great states that have more liberal laws, where people are allowed to make contracts as they see fit. They went ordinarily to New York. I do not know through my own experience of a single Delaware corporation being organized in Chicago. I have no doubt there are such, but not through our office. They went to eastern States where they were permitted to organize and issue preferred stock without the voting privilege, which was expressed squarely upon the stock to be issued, which could not deceive anybody, but was a simple means of borrowing money in a way that is perfectly permissible in these days. I am therefore in favor of any provision which will permit the section to stand as it does on cumulative voting. I believe in that, and in addition thereto, that there should be a provision allowing the issuance of preferred stock without the privilege of voting, if the parties so dominate in the bond to sell it, and it is purchased with that understanding. I do not care to make any argument further than that, but if the State of Illinois is to retain its great corporations, they will come here as foreign corporations anyway, but if they are to be organized here, we have got to come along with the times and to permit them to do those things which harm nobody, but which are privileges which to them mean very, very much.

The gentleman from Knox (Gale) is correct when he says they simply go elsewhere, pay their fees and come back, and it is possible to issue their preferred stock in the way in which they wish to do. Why cannot the State of Illinois retain control of those corporations, let them issue this preferred stock in the way other great States do? I have no complaints, nor anybody else, if fifteen States have followed the lead of Illinois, there are certainly a much larger number that have not, and they are the foremost States of the Union, which do not frown on aggregations of capital properly used. I am very much in favor of the amendment.

Mr. MILLER (Cook). I would like to add my testimony to that of the gentleman who last spoke in regard to the usages of corporations. I personally have knowledge of a good many who are doing business in Illinois, whose principal place of business is in our State, but who cannot incorporate here because they cannot take advantage of the up-to-date methods of financing which are recognized throughout the country, with many advantages over issuing bonds.

Now, it seems to me we ought to be consistent in this matter. If any gentleman here ever discovered any immorality or any bad effect of allowing corporations to issue preferred stock which is non-voting, which the purchaser knows is non-voting when he buys it, except after two or three defaults, as ordinarily are in the payment of dividends, then why should we license foreign corporations to come in here and do the same thing? I cannot see the consistency or business sense of leaving in the Constitution a wide open door and also in the statutes for foreign corporations to come in here and do acts which are declared by our Constitution to be immoral for the domestic corporations, and yet that is the result of keeping this particular prohibition in the Constitution. Corporations are like individuals, you cannot keep a corporation from treating its stockholders unfairly by imposing on it certain restrictions and details as to the way it does business.

We will all recall this instance, I think, those of us who are lawyers. Some years ago the gentleman now resident in the White House in Washington then maintained his residence in New Jersey and was the chief executive of that State, and there were passed by the New Jersey legislature at his behest some seven corporation laws dealing with the details

as to how corporations should be managed. They were passed and at once proclaimed as the measures whereby all corporate dishonesty of all kinds was put behind us forever. Of course, we all knew it was so, because the gentleman said so. Now, what has happened? One by one those seven systems, as they were called, have been repealed. Why? Because they were found not to work well; they accomplished nothing and they simply hampered legitimate business, and the last one was repealed about one month ago. That is a little example of what happens by the attempt in matters of detail to restrict things which are all right as long as they are honestly done. We cannot make people honest by Constitution.

Mr. MICHAL (Cook). I am opposed to the amendments and the section as reported by the committee. I believe in the widest opportunity for industrial and commercial expansion. I do not believe that in the organic law of this State any restriction of any kind at all should be imposed upon corporate enterprises. I think that everything in the way of liberality to persons desiring to form corporate enterprises for the purpose of pushing along commercial affairs and industrial affairs ought to be tolerated. I do not think that we ought to go to the spirit of the anti-corporation influences who were bigoted in their belief, as I take it, from reading the debates of the Convention of 1869-70. I believe we have long passed that period, and I think experience has taught us that this great State has been hampered in doing business in a corporate way. I think that everything in the way of liberality should be accorded to people who desire to take advantage of the fundamental rights and incorporate as a corporation to carry on business. I do not believe that any set of laws can be made which will prevent the fool from parting with his money. I think the more right you give to the legislature to control these things, and with the less constitutional restrictions, the better laws you will have for those corporations. I therefore am against the majority report and the amendments, and I am in favor of its entire elimination from the Constitution. (Applause.)

Mr. WOODWARD (Cook). I want to say that I feel about this matter as does my neighbor from Cook, Judge Cutting. I feel that there should be some provision incorporated in this section which permits the issuance of preferred stock with non-voting power. To that idea I am very firmly committed, and I am also strongly of the opinion that a provision should be retained in this Constitution whereby minority stockholders would have the identical rights that are now afforded to them under the section which we are at present discussing. My opinions on those two questions arises largely by reason of some personal experience which I have had. Much has been said about the convenience of the issue of preferred stock as a means of financing a business. I have gone through that same experience in a personal way and I realize and appreciate the inconvenience of trying to operate in that manner under our present Constitution, and on the other hand I have also had some personal experiences with reference to the benefits to be derived by minor stockholders under our present cumulative voting system. Therefore, Mr. Chairman and gentlemen, unless this section is finally amended so as to provide for both of these rights I shall feel obliged to vote against the motion to strike out section two and shall vote to retain that section in the article as it is now written and recommended by the majority report of the convention.

Mr. WALL (Pulaski). Let us see how the amendments before us will affect section two with the amendment by the gentleman from Aurora, on the minority report: "The General Assembly shall provide, by law, that in all elections for directors or managers of incorporated companies other than co-operative societies, every stockholder, whose stock by charter or contract has at the time unrestricted voting power, shall have the right to vote in person or by proxy, for the number of shares of stock owned by him, for as many persons as there are directors or managers to be elected, or to cumulate said shares, and give one candidate as many votes as the number of directors multiplied by the number of his shares of stock, shall equal, or to distribute them on the same principle among as many candidates as he shall think fit; and such directors or managers shall

not be elected in any other manner". The amendment that affects this section is the portion of it which reads "every stockholder whose stock by charter or contract has at the time unrestricted voting power". Now, I agree in my conclusions with the gentleman from Jefferson (Gilbert), but disagree with him largely in the reasons for those conclusions. This portion of the amendment following the word "stockholders" is uncertain, ambiguous and far afield. It is capable of two or three different constructions. I confess that I am unable to say just what construction the Supreme Court would put upon it as it reads at this time, "whose stock by charter or contract has at the time unrestricted voting power". Now, what does that mean? Does it mean at the time the corporation is organized, or at the time of voting? Now, suppose that several delegates of this body should form a corporation, and two of them should hold a majority of the stock and five be minority stockholders. Would they incorporate in the charter the unrestricted power of any man to vote his shares of stock by multiples, as set out in the balance of the section, or a restriction to that effect? Would they do that when they voted to elect directors? Would they by majority of the vote of individuals restrict there and then, and when it came to a vote, would they say they have restricted voting power and that the balance of the section with reference to electing directors would not apply? What does it mean? Does it not mean this? That by charter or contract they can so restrict the minority stockholder as to prevent him at any time from having a voice, electing any of the directors of his concern, or in the management of the corporation. Does it not therefore have the same effect, substantially speaking as to strike the section upon the original motion of the delegate from Cook? I do not know what it means. I may be wrong in these conclusions, but it strikes me, Mr. Chairman, that this might be the plausible, reasonable and logical construction of this amendment, and if that is so, I am very much opposed to it. I believe with Judge Cutting, and with the gentleman who last spoke from Cook, Mr. Woodward, that for the protection of the minority stockholders we ought to preserve this section in the Constitution.

It is true we were told last Thursday by a very eminent distinguished and learned delegate, the gentleman from Champaign (Mr. Green) that our Constitution was antiquated and obsolete with reference to this section of this article, but sir, I disagree with the gentleman in that. An examination of the Constitutions of the various States shows that twelve of the States that have adopted their Constitution long since the Illinois Constitution was adopted, have seen the beneficent effects in Illinois of this provision, and they put the identical and exact provision in their Constitution for the very reason it was put in the Constitution of 1870, and their courts in construing this section of the Constitution have used practically the same language that our courts have. I am also in agreement with the gentleman from Knox (Gale) that it is against public policy, and the reasons he gives are good. Of course, when we run contrary to the Constitution it is against public policy, because the Constitution being the supreme law of the State should be strictly followed, and the courts have held that whenever we run counter to it it is counter to public policy, but his reasons are not good for saying that because this section of the Constitution may be somewhat legislative in character, that it therefore has no place as a section in this article. This is not legislative in character. The Supreme Court of California has so held, and they said the beneficent results following this section in the State of Illinois are sufficient warrant for a liberal construction of it in the State of California. California is called a progressive State. Pennsylvania, sitting over there in the East, the home of corporate interests, adopted its Constitution long after the Illinois Constitution of 1870, and it has incorporated the entire section word for word. It is true bond holders cannot vote, because they are not stockholders, and the Constitution says stockholders shall vote. It is true that voting trusts are frowned upon, because they do not represent the spirit nor the letter of this section of the Constitution, but I do not believe our Supreme Court has held that, and I do not so understand the 270th Ill., that preferred stockholders must always

vote in the election of directors, for as the Attorney General says in an opinion rendered in 1916, if, by unanimous consent it is agreed they shall not vote, I see no legal or sound reason why under this section of the Constitution they could not prevent themselves from voting, provided, of course, the other stockholders and stockholders alone elect the directors. On the whole, Mr. Chairman, I believe this provision is salutary, it is protective in its character, it is progressive instead of retrogressive in my judgment, and on the whole sound, safe and conservative, and ought to be retained.

Mr. GILBERT (Jefferson). If this Convention will vote down the pending amendment, I will offer an amendment that provides that stockholders having preferred stock shall not vote unless and until successive defaults shall have been made in the payment of dividends on certain preferred stock. You can do what you will with it, I believe the pending amendment ought to be voted down and some proper provision put in covering preferred shares of stock.

Mr. MOORE (Macon). What I do not know about corporations it would take this Convention a great many years to write, but there is a question up here that seems to me an uneducated man in corporations might understand. It seems to me that the question here turns upon whether or not you are going to allow a man to appoint an agent for him permanently or not. Therefore, there is no question except about cumulative voting. I believe everybody concedes that ought to be retained. It seems to me if you can sell your house without recovery or a man can sell his horse or give a power of attorney to anybody to manage your estate indefinitely, there is no reason why you should not be able to allow somebody else to do your voting in your corporations, and allow him to do it just as long as he pleases. It seems to me that sort of a provision in this Constitutional clause is an invasion of the individual's right, and that it ought to be wiped out, and cumulative voting should be retained. I am not in sympathy with those people who have nothing to say that is good about a corporation. I really believe that it is quite possible that men may be members of a corporation and be honest. Now, I do not own a cent of stock in any corporation on earth, and I never did, but I have always had my face turned against the demagogue who has nothing better to do than to abuse the men who manage big business. Big business happens to be a necessary thing in this country and it has got to be managed by men of brains, and to my mind it is a crime to forbid a man to trust them, or to turn over to them his property to manage.

Mr. McEWEN (Cook). If am not out of order, I would like to offer this resolution: "Resolved, that it is the sense of this Committee of the Whole that the substance of the present section two as to cumulative voting should be retained, but so modified as to permit the issuance of preferred stock which shall have no voting power except in case of default, and that it be recommended to the Convention that section two of the proposed amendment be referred back to the Committee on Corporations for such modification and further report." I offer that resolution, Mr. Chairman, because it is a very difficult thing to put before the Convention instantly and without time for reflection and thought, a proper wording to accomplish the purposes intended. I think the Committee on Corporations could take the expression of the committee and put it in proper language and can present it to us in a form we could readily vote on.

Mr. MORRIS (Cook). Point of order, that cannot be done now.

CHAIRMAN FYKE. The point of order is well taken.

Mr. RINAKER (Macoupin). I would like to ask the permission of the gentleman who has the pending amendment to amend this section and offer the following as a substitute for his amendment. Add to the present section as reported the words, "and provision may be made by law for the issuance of classes of stock with restricted or without any voting power and every certificate of stock shall show on its face its voting or non-voting character."

Mr. MIGHELL (Kane). There were but two purposes in the presentation of this amendment which was presented by me last Thursday afternoon. The first was to permit the issuance of preferred stock without voting power.

That proposition was submitted by the distinguished delegate from Cook, but his method of securing it did not satisfy some of us, because striking the entire section did away with the second proposition we were interested in, namely, cumulative voting system in the selection of directors or management for corporations. Many of us believe that should be retained as a constitutional provision, and so my amendment was to accomplish what the delegate from Cook desired without doing away with cumulative voting. I think the suggestion made by the delegate from Macoupin (Rinaker) would accomplish all that my amendment will accomplish and perhaps satisfy those who criticized my amendment. I am as anxious to fully protect the public in the matter of deception in the purchase of stock, and consequently I am willing to put in any language which will so protect the people. I am inclined to think that the suggestion made by the delegate from Macoupin is put in better language than mine, and I therefore am glad because I have no desire to word this matter myself, I am willing to accept his wording to get the idea through.

CHAIRMAN FYKE. The question is on the amendment of the gentleman from Macoupin (Rinaker).

(Motion prevailed.)

Mr. GREEN (Champaign). I move that section two as now amended, be adopted.

Mr. DUNLAP (Champaign). I would like to offer a further amendment to section two, "And provided further that this section shall not apply to co-operative associations or societies formed or organized for agricultural, horticultural and mercantile purposes, and the voting rights of shareholders and stockholders of such organization or society shall be governed by general law."

Mr. GILBERT (Jefferson). That amendment applying to mercantile associations would take in a large number of businesses. I have no objection to the co-operative plan—

Mr. DUNLAP (Champaign). I have no objection to striking that out, the word "mercantile" unless some members insist on it.

Mr. GREEN (Champaign). I am certainly opposed to that kind of an amendment if this section is to be adopted. It is not fair, and it is not the kind of thing that will get anywhere in this Convention. I voted for this amendment as proposed by the delegate from Macoupin, because it was general in its application. If we are going to make one kind of Constitution for agricultural associations, and another kind for banking and another kind for merchantile establishments, we ought to find it out. My judgment is nobody expects that kind of thing, and the fact that "mercantile" is stricken from this only emphasizes the vice of it. If it is a bad thing for merchantile societies it is a bad thing for any other kind of association. Personally, I think it should be stricken out, but it would be charged after the spirited debate on the floor, that something was accomplished that the people did not understand. Therefore, when the amendment was offered that gave the power to the General Assembly to provide by contract for classification of stock, it seemed that the amendment after all was going to remove the restriction that had prevailed in this State for fifty years against corporations really functioning as they should. I am not afraid to take the position that this whole article on corporations ought to be general and it ought not to be special legislation for any class, and no class ought to ask it. I believe that cumulative voting ought to apply to banks, but I do not believe we should write a Constitution for banks. Therefore, by leaving the section as it stood everybody is protected, has the right by charter or contract to so organize their associations, whether cooperative, agricultural, horticultural, manufacturing, merchantile, mining or whatever it may be, under the same laws that his neighbors can organize, and that is the way it ought to be. (Applause).

Mr. HAMILL (Cook). I move as a substitute for the amendment offered by the delegate from Champaign (Dunlap), "Provided, this Constitution shall not apply to farmers." (Laughter.)

Mr. SUTHERLAND (Cook). The delegate from Champaign, if I understand correctly, offered an amendment exempting specifically agricultural, horticultural and mercantile societies, and if I understand correctly, the delegate from Jefferson offered an amendment to that eliminating mercantile societies, and that the delegate from Champaign accepted that amendment.

Mr. DUNLAP (Champaign). Yes, I will.

Mr. SUTHERLAND (Cook). I shall be obliged to vote against the whole proposition; while I believe thoroughly in agricultural societies, I believe in the possibilities of cooperative and mercantile organizations; it may be one of the means we shall have to use in combating the high cost of living. It has been used with good effect in Great Britain and in many parts of this country. I hope the gentleman will stand on his amendment as originally offered, otherwise I shall have to vote against it.

Mr. WALL (Pulaski). I would suggest to the delegate from Cook who offered the amendment that this shall not apply to farmers, to add to that "nor to Sears-Roebuck." (Laughter.)

Mr. HAMILL (Cook). I accept the amendment.

Mr. DUNLAP (Champaign). I will submit to the delegates to this Convention that what I don't know about corporations would fill a book, but I do submit this to the delegates of this Convention, that there are throughout this State a great many cooperative societies and associations and they have been operating under the laws of this State in such a way that is satisfactory to them, but with the exception of this cumulative voting feature of their stock. Now, I do not care whether you include agricultural and horticultural societies in this amendment or not, but I do think that where you authorize the legislature to enact a law that will apply to all corporations and you have in those corporations cooperative societies, there is not a reason why the legislature may not enact laws especially relating to such corporations and associations, and that is the only object in offering this amendment, and if I knew more about corporation law, as some of the distinguished attorneys do, I might be able to put this in such phraseology as would be acceptable to them, and if the secretary will read that amendment without those words I would like to have you listen to that, and see if that meets with your approval.

THE SECRETARY (reading). "Provided further that this section shall not apply to cooperative associations or societies, and the voting rights of shareholders and stockholders in such societies or associations shall be governed by general law.

Mr. SUTHERLAND (Cook). I think that is all right.

Mr. DUNLAP (Champaign). I cannot see any objection to an amendment of that kind, and I will substitute that for the other. I hope that will meet the approval of the gentleman from Cook, and the other delegates to the Convention.

Mr. GREEN (Champaign). I would like to know what that means now.

CHAIRMAN FYKE. The question is on the amendment of the gentleman from Champaign (Dunlap).

Mr. DAWES (Cook). I think I would like to say a few words on this subject. I spoke on this when it was introduced last Thursday. At that time I said the discussion upon this subject was likely to divide itself into two views, one which regarded the corporation as the financial instrument of business, conducting large transactions, infringing perhaps upon the rights of the public, imposing to some extent on the stockholders and offering stock to the public under misrepresentation so as to bring about fraud in the future. From this viewpoint comes the necessity of strictly limiting the powers of these corporations. Mr. Chairman, it is fortunate that those who wrote the Constitution of 1870 did not attempt to prescribe the methods by which such duty should be checked, leaving in the legislature the inherent power of control. They left it free to check them and correct such abuses. The efficient administration of the Blue Sky Law in Illinois has given us all complete evidence of the fact that in matters of this kind there is an advantage in leaving the legislature to meet the changing problems which come up from year to year. The other view of the corporation is, that it is the instrument

offered by the State whereby citizens may associate themselves together in business, and I say to you, that too great restrictions upon this power to associate themselves in business organization is an infringement upon the individual rights of the citizens. When we consider citizens gathered together to associate themselves in business enterprises, we must realize that they meet under different conditions, dependent upon the individuals who will associate themselves together, and upon the nature of the enterprises in which they embark, and when we consider the control of the corporations, whether stocks shall be voting stocks, or whether it shall have restricted voting powers, or whether it shall have no voting powers, we deal directly on the methods in which capital is brought to new enterprises. Surely, since the conditions under which we live have driven most of us to corporate activity in business enterprises, it is for the interest of the development of the State that there should be left the utmost freedom in making those essential contracts, which are the contracts by which capital is brought to the development of the resources of the State. When we in our individual capacity enter into the organization of these companies, we find in some cases that in order to attract capital we must give to the preferred stock voting power. We find in other instances that those who furnish the capital and accept preferred stock do not want voting power. We find in some cases that they wish not only to leave the management but the control of the company in the hands of those who perhaps furnish the common stock. In other words, we find that depending upon the conditions that face the citizen in associating himself in a corporation, that all sorts of trades must be made.

Now, we have before us this cooperative association of farmers, and they say in order to get the capital, in order to get the support of the communities in the purchase of a business association which is advantageous to the community as well as advantageous to the citizen who enters into it, that it is necessary for them to have freedom. In asking freedom for themselves, why should they ask to have freedom withdrawn from others? If it is necessary for them to be free to make trades in order to bring capital, why should they say that others must walk down this State a narrow path prescribed in the Constitution of the State of Illinois? It is possible for the legislature to prevent abuses. It is possible for them to lay down the public law under which these associations should be formed, but from year to year it will be found inadvisable for them to do it, if their action prescribes too much, the freedom of men in entering into business associations upon such terms as is satisfactory to all who enter into it.

I believe the amendment offered by the delegate from Macoupin (Rinker) was of such a character as to make it possible for the legislature to permit the organization of corporations, or if you please, cooperative associations—and there is no essential distinction except that the words “cooperative associations” seem to assume a somewhat higher motive than the word “corporations”—but I believe it was possible under that amendment for the legislature to prescribe the organization of corporations under which classes of stock might be issued which would have restricted voting power, and which would have no voting power or which you would be able to vote under a cumulative system, or which might be freed from them, and if so, surely these cooperative associations have all the protection they ought to have, and I for one cannot permit the vote upon this question to be taken until I record my conviction that it is possible for us to prescribe such conditions in this Constitution as will meet and satisfy the legitimate demands of all our citizens, subject to legislative interpretation, and that it is not necessary to exclude from the operation of the Constitution, or any part of it any classes of citizens in the State of Illinois.

Mr. GREEN (Champaign). I want to trespass on the time of the Convention a minute. I do think cooperative associations should be allowed to organize without cumulative restrictions or provisions on the stock. Maybe they want cumulative voting restrictions or provisions on the stock, and they have the right to classify or issue it but whenever we start out to do something for some particular class of the public or particular interest, we will

get into this trouble, and therefore, it is fundamentally wrong to try to put that legislative provision into this article that down to this time really had a definite meaning, that men could contract whether they had cumulative voting or not, and what kind of stock they would issue but to say that this whole section shall not apply to a great group of people, and there is no man in this Convention hall that can with any degree of certainty tell what the Supreme Court will define a cooperative association to be. It has no meaning in legal parlance, and all lawyers will agree with me there is no security to what the Supreme Court may say. Why not leave the Constitution so we understand these cooperative associations, whatever they are, have the right to organize and have the right to have cumulative voting, as they see fit, and not undertake to make fish of one and fowl of the other?

Mr. DUNLAP (Champaign). My object in offering this amendment was to provide that the sentiment of this Convention in voting for this section might be so expressed that it would not mean that the cooperative associations should be required to have cumulative voting of their stock. The gentleman from Macoupin (Rinaker) said that he meant his amendment to permit the cumulative voting of stock in all associations, and it was for that reason, to specify that cooperative associations might not be put under that restriction, that I offered this amendment. There seems to be some doubt among the learned attorneys as to what this section does mean. Those gentlemen have had put into this section about everything they have asked for, but cooperative societies operate upon a different basis. They operate upon a basis that provides that not only the stockholders shall participate, but that their customers shall participate, and for other reasons of that kind it was thought inadvisable to have cumulative voting in voting for directors. I will admit that what I do not know about corporations would fill a book, and so I will temporarily withdraw this amendment for further consideration. I may offer it in some other form later on. I do not wish to do anything here that would impair the usefulness of this section of the Constitution, but I do believe that these associations have some rights that ought to be protected in this Constitution, that they are not protected under section two as it now reads.

Mr. TODD (Peoria). I move that debate be closed on this question.

(Motion prevailed.)

Mr. GREEN (Champaign). I move that section two be adopted as amended.

Mr. CARLSTROM (Mercer). Do you withdraw your amendment?

Mr. DUNLAP (Champaign). Yes.

Mr. CARLSTROM (Mercer). I will object to the withdrawal of the amendment at this time, with any assurance that we have to argue it again.

Mr. GREEN (Champaign). Point of order. He has the right to withdraw his amendment, as I understand it.

Mr. GILBERT (Jefferson). I believe that the amendment offered by the delegate from Macoupin (Rinaker) will permit cooperative associations in their charters, if the legislature so wills, be made to do all the things that the delegates from Champaign (Dunlap) wants to do, and all the delegate from Mercer wants to do.

CHAIRMAN FYKE. The Chair understands without unanimous consent it is out of order that the amendment be withdrawn. The question is on the amendment offered by the gentleman from Champaign (Dunlap).

(Amendment lost.)

CHAIRMAN FYKE. The question recurs on the adoption of section two as amended.

(Section two adopted.)

Mr. SUTHERLAND (Cook). I move the committee recess until four o'clock.

(Motion prevailed.)

Whereupon a recess was taken by the Committee of the Whole to Tuesday, May 25, A. D. 1920, four o'clock p. m.

4:00 o'CLOCK P. M.

The Committee of the Whole met pursuant to recess.
(Chairman Fyke presiding.)

CHAIRMAN FYKE. The committee will be in order.

Mr. SUTHERLAND (Cook). If it is in order, I move an amendment to the majority report, which would be a new section to be inserted between sections two and three, and to be known as section three. The amendment will be the present section four of the article on corporations of the Constitution of 1870, which reads as follows: "No law shall be passed by the General Assembly, granting the right to construct and operate a street railroad, in any town or incorporated village, without requiring the consent of the local authorities having the control of the street or highway proposed to be occupied by such street railroad."

I further move to amend Proposal 364 by reoffering the succeeding sections to conform thereto.

Now, Mr. Chairman, the language in the present section is a substantial home rule guarantee, and a great deal is being said before the committees of this Convention about home rule, and it seems to me this is an essential proposition to put in a home rule statute, namely, that a city through its organic government shall have the opportunity to say whether or not a private corporation shall occupy the street of the city for the purpose of giving street railroad service. Therefore, Mr. Chairman, I move the adoption of the amendment.

Mr. HAMILL (Cook). Point of order. It seems to me the amendment offered by the gentleman is not germane to the article now under discussion, and therefore, not admissible as an amendment. He says very particularly it has to do with home rule for cities, and has to do with the control of the city streets.

CHAIRMAN FYKE. The Chair will say for the information of the delegate from Cook (Sutherland) the section offered by the delegate from Cook was referred by the Committee on Rules and Procedure to the Committee on City and Municipal Government, and for that reason it was not considered by the Committee on Corporations. The point of order is well taken. The Clerk will read section three.

(Secretary reads section three.)

Mr. MIGHELL (Kane). I move we strike out the last sentence in this suggested section. This sentence reads as follows: "No act of the General Assembly authorizing or creating associations or corporations with banking powers, nor amendments thereto, shall go into effect, nor in any manner be enforced unless the same shall be submitted to a vote of the people at the general election next succeeding the passage of the same, and be approved by a majority of all votes cast at such election for and against such law."

If we have a general referendum law it will be unnecessary for us to have this sentence in this article. If we do not have the referendum law, then I think it is inconsistent for us to have a referendum reference to the particular business of banking, and I think the committee who represented the Bankers' Association of this State, who came before your committee, as I understand it, did advocate this referendum was very inconsistent and that the banking fraternity was opposed to a referendum of a general character. I move you we strike this particular portion of the section out.

CHAIRMAN FYKE. The question is on the motion of the delegate from Kane to strike out the last sentence of section three of the majority report.
(Motion prevailed.)

Mr. MIGHELL (Kane). I move you, Mr. Chairman, the section as amended be adopted.

(Section three adopted.)

CHAIRMAN FYKE. The Secretary will please read section four.

(Section four read by the Secretary.)

Mr. HAMILL (Cook). I move to strike out of section four the words in lines, six, seven, eight, nine and ten, reading, "The names of all stockholders of banking corporations or associations, organized under the laws of this

State, the amount of stock held by each, the time of any transfer thereof and to whom such transfer is made, shall be recorded in the office of the Recorder of Deeds in the county in which the principal office of such bank is located." It is purely a legislative matter, it seems to me, Mr. Chairman.

(Motion lost.)

Mr. RINAKER (Macoupin). I make a motion to amend by adding a few words to that section. I will state what the amendment is, and hand it up to the Secretary's desk right away. It seems to me if we are going to act on this provision at all, retaining any restriction as to the transfer, there should be added to line ten a limitation of the time in which transfer of the stock should be recorded, and I therefore move to insert after the word "located" the words "within ten days after such transfer."

Mr. HAMILL (Cook). It seems very unwise to make any such provision as that. There are large holdings of stock in banks of this State by non-residents, and you are going to embarrass a great many people who have money invested in this State, and without doing any good at all.

Mr. RINAKER (Macoupin). It seems to me if we are going to be particular about restrictions of this kind, that they ought to be sufficiently definite that they will amount to something. If these transfers must be recorded, they must be recorded promptly. The purpose is, I take it, to give notice of the solvency to the stockholder. If there is not some such provision as this, it is entirely possible for the record to show ownership by solvent persons and yet the transfer actually has occurred, so people may be misled in the matter. If it is any inconvenience to stockholders to record the transfer within ten days, perhaps thirty days would not be too long, but if you are going to record the transfer it should be done in such time to give real notice of the transfer of the stock.

CHAIRMAN FYKE. The question is on the motion of the delegate from Macoupin to amend.

(Motion lost.)

Mr. GILBERT (Jefferson). I move we adopt section four.

(Section four adopted.)

CHAIRMAN FYKE. Please read section five.

(Section five read by Secretary.)

Mr. MICHAELSON (Cook). I move to strike out of the second line "shall not be discriminatory, nor confiscatory, but must and," and at the end of the line the words "both to the general public and to such corporations."

I make that amendment for this reason. The burdens are constantly becoming heavier on the people served by public service and public utility corporations through overcharge, by one method and another. I have had a great deal of experience in the City of Chicago with public service corporations. The people are being robbed by the street car companies, they are being robbed by the telephone companies, they are being robbed by the gas companies, they are being robbed by the electric light companies, and if there are any other public service corporations they are being robbed by them, (laughter) because of laws which are now upon the statute books so loosely drawn that they favor corporations and discriminate against the people. If this language which I ask to be stricken out is included in the Constitution, it will put the stamp of approval upon this practice of robbing the people, and you will find that instead of being robbed in a small degree the people will be robbed in an increasingly greater degree, and it is up to this Convention as representing the people of their districts to legislate for the people and against the corporations, and not for the corporations as against the people. This is the biggest question involved in this entire report, and I want to say, Mr. Chairman, I am going through with this in the Convention and ask for a roll call upon the elimination of these words. I move you, gentleman, that those words be stricken out.

Mr. TODD (Peoria). Why do you want to strike out the word "discriminatory?" Do you want the corporations to discriminate against the consumer?

Mr. MICHAELSON (Cook). I don't want the people to be discriminated against.

Mr. SUTHERLAND (Cook). I would like to know what the reason is for the entire section. Why it was put in. I am asking for information?

Mr. CARLSTROM (Mercer). I would like to offer as a substitute for the amendment offered by the gentleman from Cook (Michaelson) following the motion to strike out, to exclude the words, "both to the general public and to such corporations" from section five.

Mr. SUTHERLAND (Cook). Can't we have an explanation for that whole section in order that we may vote more intelligently upon the pending motion?

Mr. MILLER (Cook). I would like to ask the gentleman who proposed the amendment, what is the real reason for striking out the provision that these rates shall not be discriminatory?

Mr. MICHAELSON (Cook). I do not like the word "discriminatory." I am not a lawyer nor a member of the Supreme Court, but I have some feeling that when that question comes up before the court and is argued by the eminent attorneys before that court, that the word "discriminatory" may be given a different construction than that which would be in favor of the people, and what it is intended it shall be.

Mr. MILLER (Cook). This says "not discriminatory." How would we be in better shape if we struck out the words "not discriminatory?"

Mr. MICHAELSON (Cook). Shall not be discriminatory in favor of the corporations. What leads you to believe that is fairer to the consumer?

Mr. MILLER (Cook). The natural meaning, when it says "not discriminatory" as held by the courts and as plainly read is discriminatory between consumers, and I am wondering what is the real purpose of giving these corporations a right to discriminate between consumers.

Mr. MICHAELSON (Cook). I want laws passed governing public service corporations, which shall give us rates at all times reasonable and just. That is all.

Mr. MILLER (Cook). I am absolutely and unalterably opposed to giving to corporations the right to discriminate between consumers.

Mr. MICHAL (Cook). May I inquire from the distinguished delegate from Cook, just what fears he has in his mind. I know he has had a great deal of experience with public utilities as a member of the common council of the City of Chicago, dealing with public utilities and going over contracts, rates, charges and services and that he has run across the word discriminatory. What fear have you if that word is left there?

Mr. MICHAELSON (Cook). I fear that the word "discriminatory" will militate in favor of the corporations as against the people, when the question is being argued before the court and when the court gives its decision.

Mr. MICHAL (Cook). You will accept there is but one definition to the word "discriminatory" and that will have to be adopted by the court?

Mr. MICHAELSON (Cook). The court might put a construction upon it which is not in line with the definition.

Mr. MICHAL (Cook). Mr. Chairman, I cannot see any harm in that. I think as worded by the committee it is eminently fair and it was intended as a limitation and as a guide post for future legislature or other bodies that might deal with these affairs. There is no trick or anything concealed about it. It is fair and it is simply a guidance for such bodies as will have such matters in charge in the future. It is only placing a limitation upon them, that they cannot go over here, and while it is practically an expression of the common law, I do not think it is out of place to have it before such bodies as a reminder that they cannot run riot when they are fixing the rates, and I think it is a fair proposition and should be in the Constitution. It is a protection to the people.

Mr. STAHL (Stevenson). I have prepared two amendments to the majority report to be added as a separate section. I desire to submit these two amendments, one as an amendment and one as a new proposal to be inserted at the discretion of the Committee of the Whole.

Mr. BRENHOLT (Madison). Point of order.

CHAIRMAN FYKE. The question before the committee now is the substitute of the gentleman from Mercer for the amendment offered by the gentleman from Cook.

(Motion lost 26 to 29.)

Mr. ETLING (McDonough). The amendment as proposed by the gentleman from Cook, as I understand it, leaves the section as section eight in the minority report. "The rates, charges and services of all common carriers, railroads, and other public service and public utility corporations, shall at all times be just and reasonable." Now, therefore, as a substitute I move we strike out section five of the majority report and insert section eight of the minority report.

CHAIRMAN FYKE. The motion is out of order. The question is on the amendment of the gentleman from Cook.

(Motion lost 32 to 12.)

Mr. MIGHELL (Kane). I move you we strike out the entire section, I consider, gentlemen, that we are taking a very great step backward if we introduce a proposition of this kind into our new Constitution. The old Constitution has not seen fit to protect publicly owned and publicly managed corporations of any kind, and I do not see why we should go to the extent that this section provides we should go, and I personally would be very much disappointed if you accept this section as it now stands. I feel right in this section is a joker, and we have to eliminate it, or we have got to be responsible to the people for one of the most serious situations in regard to corporations we can face. It should be stricken out entirely. Our present Constitution does not refer to this, and why should we? The joker consists in the fact we are trying to protect corporations in the last part of that section.

Mr. SUTHERLAND (Cook). I do not know that the gentleman who last spoke meant there is any intentional joker in that section, but in the minds of the delegates of this Convention there is a lot of doubt, and a lot of difference of opinion as to just what the section means, and certainly what its result will be. I do not think there is any crying need for this particular phraseology in the new Constitution. I do not think there was any such demand when the Constitution was ordered by the people, and therefore I hope that in order that there may be no unnecessary changes in the old Constitution, as the result of our work, that the motion of the delegate from Kane (Mighell) will prevail.

Mr. CARLSTROM (Mercer). Gentlemen, I think this is a critical hour in the history of this Convention. The gentleman from Kane (Mighell) said there was a joker in this provision. I agree fully with the gentleman from Chicago, Mr. Sutherland, that undoubtedly there is no intentional joker, but I do say, gentlemen of this Convention, there is a joker in this proposal. We are bartering away the sovereignty of the State of Illinois in the last five words of this section. We are putting the State of Illinois in a position where it must stand and justify its own acts, and that will be an offense we will be held answerable for. Gentlemen, this is vitally and absolutely important. We are shifting the burden of proof. When the sovereignty of Illinois, if this provision is adopted, expresses itself upon the control of roads and the control of public utilities in Illinois hereafter through the legislature by the force of this provision is saddled with the necessity of going to the courts to justify its own acts of sovereignty. Is there any delegate who wants to put the State of Illinois in that position? What does it mean, "rates shall be just and reasonable both to the public and the corporation?" It means we shall as long as this Constitution stands tie our hands until we go to the courts and justify the legislation you propose for the benefit of the people of the State of Illinois in control of any public utility. Gentlemen, if we pass this pernicious thing through here, we will answer for it. I speak feelingly because I do not believe we appreciate what we are doing. The lawyers of this Convention know we are shifting the burden upon the State to justify its own acts of sovereignty. Is there any man who wants to vote for that? If this section cannot be amended by striking out that provision I shall vote to strike it out wholly. I believe the Constitution of 1920 should

be willing to express the policy of the State of Illinois in its basic law with reference to the control it will impose upon public utilities and public service corporations of this State. I certainly will vote against the idea of expressing a position that would tie the hands of the State and surrender its sovereignty to those who might serve the people of the State through public service corporations.

We have come to the parting of the ways. Thus far there has been no striking example of where the real question concerned has arisen affecting the people of this State in the deliberations of this Convention like the one which confronts us now. We are at the parting of the ways. I say these things earnestly and sincerely, and I challenge any lawyer in the Convention to say I am wrong. When you impose the burden of that character on the State you are putting the State in the position of going in the courts, not on the theory that the State's acts are right, but the State assumes the burden of justifying its own acts. Our whole policy of fundamentals in the State of Illinois today, when the State acts it acts in authority, and those who challenge the acts of the State must carry the burden of challenging successfully those acts, but by this provision, gentlemen, we relieve those acts from that burden and shift it to the State and compel the State to justify its own acts. Certainly this provision should not carry, and unless this can be amended to strike out these obnoxious words, then let us vote it out altogether, because if the people awaken to what has been done to them we will be entitled to receive the just condemnation that I would want if I voted for it. I appeal to you sincerely, there is a surrender of the sovereignty of the State to the public utilities corporation.

Mr. HAMILL (Cook). I will confess my ignorance, I cannot see that the burden would shift at all by the adoption of this. I am in accord with the desire of the gentleman to see the section stricken out because I think this is quite unnecessary, but I want to record myself as believing he is quite mistaken when he supposes this would shift the burden of proof if the constitutionality of the State statute regulating rates were questioned. The burden would be on the person who challenged the rate fixed by the legislature.

Mr. JARMAN (Schuyler). I would like to inquire of some member of the committee the reason this section was put in this report. It is not in the present Constitution except as it refers to section fifteen with reference to railroads. It is not necessary in any way to preserve any rights of the people, and its only purpose in there, as I see it, is to create a limitation. Under section fifteen of the present Constitution, the Supreme Court in the 67th Ill. page 11, said, "The General Assembly has the power, irrespective of this section, by virtue of its police power to enact laws preventing unjust and unreasonable discrimination in railroad rates, and to enforce that legislation by adequate and proper methods;" so I would like to inquire of some member what is the real object of this new section of this article.

Mr. GILBERT (Jefferson). There seems to be no reply to the question that has been asked by the delegate from Schuyler (Jarman). I think the question answers itself. I think the best thing to do is to vote to strike out this new section.

Mr. MICHAL (Cook). The gentleman from Schuyler wants to know the reason why this was inserted. The draft came before the committee—of course this provision containing the old provision, was there for over fifty years—in that time conditions have changed. We have taken on many things which were never in the minds of those who drafted the present Constitution. This provision was inserted there solely and only for the purpose of creating a limitation. There was no intention ever in the minds of any of the members who worked on this draft that the burden would shift to the State to establish the justice of any rates charged by common carriers. I think that is a fair deduction. It is simply a limitation for the purpose of keeping in mind that that body which might have these things in charge, which might fix the rates, the charges of commodities, shall not go sliding one way and another. I can see the possibility of harm in having these provisions in there. I can call to your minds the proposition of street railway

franchises, I can see the vast unpopularity of a high rate of fare charged the public; I can see the injustice of a low rate of fare forced upon the common carrier. I can see the possibility of a common carrier trying to unload in these critical times on the public, and you have got a white elephant on your hands in the shape of public utilities, and the company is the gainer. It is for that purpose, so as to avoid these pitfalls, and I will say I am the sponsor of it, and I have no hesitancy to confess my activities for that purpose. It was in the interests of the public and was not even considered from a corporate standpoint, but it was uppermost in my mind that the people would not have unloaded on them public utilities that would be white elephants on their hands.

Mr. JARMAN (Schuyler). Has not the General Assembly all the power given by this section under the law and under its police power?

Mr. MICHAL (Cook). Yes, it has that power, but that power is not expressly given, and it was my idea at that time if you put it in our Constitution and have it constantly before them they would not overstep the bounds of fairness and decency in the matter of fixing charges. It was a sort of warning to them not to do something that would be hazardous or that would be unfair either to the utilities or the general public.

Mr. JARMAN (Schuyler). Is not this section a limitation on the present powers of the General Assembly?

Mr. MICHAL (Cook). Precisely, and that is what it is intended for. It is intended to avoid any calamity to the public corporation or to the general public.

Mr. ELTING (McDonough). I was unfortunate enough to be a member of that committee, and I say the committee was not in full accord on this section. I do not know from what source it emanated, but I say, gentlemen, that the definition that the man from Kansas gave of the Missouri mule would apply here, "no pride of ancestry"—and I hope after this vote is taken it will be "without hope of posterity." I can see no good use or any reason why it should be in the Constitution. I am of the opinion that it contains limitations, but just how much and what they are I am unable to tell. I do not think it should be in the Constitution, and I shall vote to strike section five out.

I drafted section eight of the minority report as harmless as I knew how and section eight of the minority report is the same as the delegate from Cook leaves section five with his proposed amendment, and I cannot see any good will come from section eight in the Constitution; I offered my section eight as a substitute for five at one time, but I will not do so again at this time. I am in favor of striking out this section; it can serve no useful purpose in the Constitution. I do not believe in putting anything in the Constitution that we do not understand and leave it to somebody else to worry about. If we do not know what it is intended to mean, leave it out. I know what the decisions are on these questions. It has been said here the courts hold that rates are not discriminatory when they do not allow a fraction of one per cent profit on the investment. That is on one side; how far it goes down on the other, I do not know; I cannot tell you where the Supreme Court would land on that proposition, but when you consider, gentlemen, that the public utilities commission are padding valuations of their property, their investment for the purpose of rate fixing—why, I know telephone companies in our State where a conduit cost only eight thousand dollars to put in, but it passed to the public utilities and they have had that appraised at fifty-two thousand dollars for the purpose of fixing rates, and the courts are sustaining those valuations, and the lady from Chicago who spoke before this Convention on that subject showed they had one schedule of rates for rate fixing purposes, and about one-third of that for assessment purposes. With those things surrounding us, and in view of the operations of the public utilities commission I would rather leave them both out than to vote to put either one in. I cannot see that section eight of the minority report will serve any useful purpose.

Mr. GREEN (Champaign). I am in favor of striking this section five from this report, and my reason is, it is a naked statement of what the

law is already, and I do not think that any public utility corporation ought to have anything put in the Constitution for its benefit, if it can possibly be construed for its benefit, and I want to be consistent, and when the naked statement of the law appears, I want to record myself as in favor of eliminating it from the Constitution.

Mr. COOLLEY (Vermilion). I can see no good reason for leaving the paragraph in that no one can interpret. Nobody knows where it came from, nobody knows what it means and nobody seems to understand the ultimate effect. I hope you will strike it out.

Mr. WALL (Pulaski). I want to go on record as being in favor of the motion to strike, and I arise wholly and solely for that purpose. I think the legislature has ample power, the common law gives them the power together with the police power without putting this in the Constitution, and I therefore wish to be recorded in favor of striking it out.

CHAIRMAN FYKE. The question is on the motion of the gentleman from Cook to strike out section five.

(Motion prevailed.)

CHAIRMAN FYKE. Please read section six.

(Section six read by clerk.)

Mr. CARLSTROM (Mercer). I move the adoption of section six as read.

(Section six adopted.)

CHAIRMAN FYKE. Please read section seven.

(Section seven read by secretary.)

Mr. CARLSTROM (Mercer). I move the adoption of section seven as read.

(Section seven adopted.)

CHAIRMAN FYKE. Please read section eight.

(Secretary reads section eight.)

Mr. CARLSTROM (Mercer). I would like to move as a substitute for section eight, section one as separately submitted in the Constitution of 1870, entitled "Illinois Central Railroad."

Mr. MORRIS (Cook). I wish to offer an amendment. Amend section eight of the majority report by inserting after the words "other authority" in line six of section eight the following: "Said money when collected shall be distributed as follows: One-half shall be appropriated and set apart and be given to the various counties through which the said main line of said railroad runs, such division to be made between said counties in proportion to the trackage of said railroads in such counties and the population of such counties, and the remaining one-half shall be set apart for the payment of ordinary expenses of the State government, and for no other purposes."

The section in question relates solely to the main line, or what may be properly called the main line of the Illinois Central, consisting of about seven hundred three or seven hundred five miles, from Cairo to Centralia, and from Centralia to Dubuque, or just as far as this State will permit us to go up to the border and then across, and from Centralia the main line goes to Chicago. In 1850 the United States conveyed to the State of Illinois every even numbered section and conveyed it solely for the purpose of enabling the State to aid in the construction of a railroad, and for no other purpose, so it was without the power of the people of the State of Illinois to do anything other than to use the property which it received from the United States in the construction of this railroad, and there were certain other provisions put in the grant by which the Illinois Central was to carry troops of the federal government, but those provisions have nothing to do with the matter under consideration. When the property became that of this State, it was in accordance with the grant turned over to the Illinois Central Railroad Company for the purpose for which it had received it, and it was provided in the charter of 1851, granted by the General Assembly to the Illinois Central, that it should pay five per cent, and two per cent, so that really seven per cent of the gross receipts is the amount which the State of Illinois receives or ought to receive from the Illinois Central Railroad Company, and in consideration of that the railroad is exempt from

taxation on this main line. Now, as a consequence, every county through which the main line of the Central passes is put in a position which no other county occupies, so far as a railroad company is concerned, because no county, city or township taxes can be collected from the Illinois Central. If the Burlington or Eastern Illinois or any other railroad passes through any county, the people of that county receive some benefit, because they are permitted to levy the tax upon its right of way and upon its property in the same way and manner that it can to any other property, subject to the general regulations and provisions in regard to such taxation. The burden is passed upon the various counties through which this main line passes of policing it and protecting it without being in a position to receive the slightest benefit other than the benefit which other counties in the State receive and give up nothing therefor.

It does seem to me, without having any special interest in the matter, that these counties through which this Illinois Central line passes ought now to be placed in substantially the same position that they would be in if there was no such provision. In other words, while the amendment which I have presented does not take away all the taxes, but simply provides for distribution of one-half, and that would equalize, in my judgment, the inconvenience and the expense that these various counties must of necessity suffer by reason of not being able to collect any taxes from the Central, and by reason of policing and furnishing protection to the road and various depots and other parts of the main line. I can see nothing unfair about it. I know of no reason why a special county or various counties in this State should be benefitted at the expense of other counties. In other words, those who furnish the feast at the table ought to be permitted to get a little bit more of it than the individual who does absolutely nothing. Nobody is hurt and no county is disturbed, because the people of the State of Illinois paid not a single cent for the land which it gave to the Illinois Central. It received it freely and without cost from the United States, and the sections which were not conveyed were sold for double the amount, so there could be no reason why any county in the State has suffered one particle because of the construction of the Central Railroad, and the counties through which the main line passes, in my judgment, ought to be permitted to receive at least from the State one-half of the taxes collected, and that substantially puts them in about the same position they would occupy if the railroad was not exempt from taxes and they were permitted to do what all the counties in the State may do, insofar as other roads are concerned.

Mr. HAMILL (Cook). The question of order suggests itself to me. This amendment offered by the delegate from Mercer, if I understand it correctly, directs the moneys received from the Illinois Central Railroad Company to be distributed in a certain way. I cannot see what that has to do with an article dealing with corporations. It is not germane. I think it should be ruled out of order. I did not hear read the amendment offered by the gentleman from Cook, but I assume it is on the same subject.

Mr. CARLSTROM (Mercer). No, I simply offered section one of the old Constitution, separately submitted, entitled, "Illinois Central Railroad."

Mr. HAMILL (Cook). I think the point of order applies only to the substitute offered by the gentleman from Cook (Morris).

Mr. MORRIS (Cook). I want to be heard on that, I think the gentleman is in error.

Mr. HAMILL (Cook). If the gentleman says I am in error, I am inclined to think I am; he knows more about parliamentary law than I do.

Mr. MORRIS (Cook). If the chairman agrees with you there will be no argument on the point.

CHAIRMAN FYKE. I will agree with both of you. (Laughter.)

Mr. HULL (Cook). I think he sets up two standards of distribution, one of population and one of mileage. I cannot understand how two standards of distribution could be used. Personally, I should be inclined to believe that the money should go into the state treasury and I can see certain equity in the suggestion made about a partial distribution of the

money in the county through which the road goes. The delegate from Cook, Mr. Morris, suggested it be applied only to the charter line. I am not familiar with the subject matter, but I want to be perfectly confident that he was correct in that statement. What is the main line, the charter line, is it perfectly certain that that would be construed so?

Mr. MORRIS (Cook). The entire section deals only with the charter line, limiting it by the language "with the provision of the charter of said company approved February 10, in the Year of Our Lord 1851." Now, of course, that only affects the charter line as designated in that charter.

Mr. LINDLY (Bond). As far as I am concerned, I intend to vote only for the old section in the Constitution. This state has spent over two million dollars litigating with the Illinois Central to find out what that section means, and I am not in favor of adding another word or sentence or phrase to it so we will spend two million dollars more, and I will vote only for that proposition.

Mr. HULL (Cook). The provision was quite mandatory. It would not leave anything to the discretion of the legislature, as I heard it read. I should be glad to be further informed as to how much of a distribution it involves. Perhaps that is not germane to any equities that might be involved in the proposition, but it would be interesting information on the subject matter.

Mr. WARREN (DeKalb). I think if you will read the debates of the Constitution of 1870 you will find some interesting reading. I have been opposed to making this change from the time it was brought to the attention of the committee. I am in favor of the amendment the same as in the Constitution of 1870. I think that something that has been adopted and has been good for fifty years or more, and has remained in the Constitution, I believe it is well for this Convention to retain. I am not in favor of taking these earnings of the Illinois Central Railroad and distributing them in any other manner than we are at the present time. (Applause.)

Mr. WALL (Pulaski). I have given this subject some consideration, because in the debates of 1870 there seemed to be well defined and divergent ideas on what in equity and good conscience ought to be done with this fund, and there seems to be in this Convention about the same condition as existed in that Convention, except that since that time the fund, which was then a very small one, would be an individual fortune now if any one man owned it, every year. The taxes for last year in June and December of 1919 paid into the state treasury by the Illinois Central Railroad Company was about two and one-quarter million dollars, and the first taxes paid in in 1855, was less than thirty-two thousand dollars, I think.

Now, I would like to be indulged for a few minutes upon the history of this proposition, and the consequent results that have followed it, and what in my judgment is the equity and good conscience of the situation. I desire to confess to the delegates that I cannot speak on this subject in entire unselfishness. The main line of the Illinois Central Railroad runs through my county, and it may be likely and no doubt is true that that fact alone, even consciously or unconsciously, would bias my attitude with reference to the position I take upon this question. I desire to say in the outset that I am not in favor of the amendment offered by the gentleman from Cook (Morris), but rather in favor of the report of the committee as set forth in this section, and I desire now to say that my attitude therefore is that this money ought to be paid into the state treasury as always, but the disposition ought to be left to the wisdom of the legislature, and that is what I understand the committee means and what these words import in this section.

Now, gentlemen of the committee, in the first place the government of the United States owned a large acreage of land in Illinois that it had never sold at the time the Illinois Central knocked at the doors of the legislature of Illinois for a charter to build about seven hundred fifty miles of railroad. The State was unable almost at that time to function itself and had nothing to give by way of promoting a great railroad through

the central part of the state, and the great branch from Centralia to Chicago of that railroad, notwithstanding the people needed it, and notwithstanding the railroad would promote the great agricultural lands of the State and thereby increase the prosperity in a great measure, and the government of the United States in order to see the project promoted gave to the State of Illinois for the purpose of promoting the project and none other, every other section of land for six miles on either side of the proposed right of way of this railroad, every other section numbered by even numbers, and where the government had sold any of the sections intervening it gave to the state in lieu thereof any section that the state should select on either side of the right of way within fifteen miles, resulting in a land grant to the State of Illinois for the purpose set forth in the grant, to-wit, the building of this railroad and none other, of two million five hundred ninety-five thousand acres of land located in thirty-two of the counties of the State of Illinois through which this road runs. This land grant provided first the right of way through public lands granted to the State for the construction of a railroad from the southern terminus of Illinois and Michigan Canal to a point at or near the junction of the Ohio and Mississippi rivers with a branch of the same to Chicago or Lake Michigan, and another by way of the town of Galena to Dubuque in the State of Iowa. The right of way to be not to exceed two hundred feet in width.

The second section provides "there is hereby granted to the State for the purpose of aiding the railroad and branches aforesaid every alternate section of land designated by even numbers for six sections on each side of said road and branches; but in case any of the aforesaid sections are sold before the road is definitely located, then the State shall select a like quantity of government land from contiguous sections alternately and the state shall hold said selected land for the purposes aforesaid, provided none of such lands shall be more than fifteen miles from the line of the railroad, and further provided that the construction of the road shall be commenced simultaneously at the northern and southern termini and continued from each of said points until completed, when said branch roads shall be constructed according to the survey and location thereof. Provided further that the lands hereby granted shall be applied in the construction of said road and branches respectively, and shall be applied to no other purpose whatsoever."

Section three provides, "The section and parts of sections remaining in the United States within six miles on each side of road and branches shall not be sold for less than double the minimum price of public lands when sold."

Section four provides said lands hereby granted shall be subject to the disposal of the legislature for the purpose aforesaid and no other.

Section five provides for the completion of the road within ten years, and if not, state to pay the United States the amount received for sale, if any, of said lands, the title to the residue to reinvest in the United States.

Section seven provides in order to aid in continuation of road to Mobile, the States of Mississippi and Alabama shall have like grant of land on same terms and for same purposes.

I read this to you to show you first the State of Illinois has not contributed to the building of this road, that the counties now receiving the benefit of all this money that is paid in by the Illinois Central Railroad and into the State treasury, and thereby assisting the payment of the State taxes have received and are receiving the same benefits as the counties through which the road runs. That none of these counties through which the road runs has ever paid out any money or given any property for the construction of this road, but on the contrary, the government of the United States to promote this road made the State its agent for the purpose of simply making the transfer through the legislature, and the Illinois Central Railroad Company upon that bonus, for that reason and upon that reason alone, the road was built. Following this grant of land the legislature of the State entered into a contract, called the charter, by which it

turned over to the Illinois Central Railroad Company at the instance of this grant the property contained in that grant from the government. It turned over to the Illinois Central Railroad Company all of its land, and it agreed, and that charter provides in section one that the Illinois Central Railroad shall, on its part, construct said railroad, provide same with rolling stock, put in good order and pay into the State treasury semi-annually five per cent of its gross earnings, and also in lieu of State taxes, three-fourths of one per cent of the valuation of its corporate property, and if that is not enough to make a total equal to seven per cent of the gross earnings, then as much more should be paid as would equal seven per cent. And the State on its part agrees in consideration therefor that all the property in said railroad and its branches and all else pertaining to it shall be the property of said company forever.

The second section of the charter provides that all the lands included in the land grant from the government to the State, in trust to aid in the construction of said road and branches comprising two million six hundred fifteen thousand acres of land should be the property of said Illinois Central Railroad Company in fee simple and should be exempt from taxation until sold. A third section of the charter provides that the railroad company should have the right of fixing the price as it might see fit upon said lands, of holding them as long as it pleased to do so, and to pay no taxes thereon as long as it held them.

The fourth section provides that the said railroad company should pay no county or municipal taxes upon any of its property forever, either on main line or aforesaid branches.

The fifth section provides that the railroad company shall have the power to establish such rates of toll for the conveyance of persons and property as it shall, by its by-laws, from time to time, direct and determine.

Now, that in substance is the land grant and the charter of the Illinois Central Railroad Company made between it and the State, and every other acre that lies contiguous to the right of way for six miles and some for fifteen miles, as soon as the charter became operative, was taken off the tax books of these various counties. It was not put on the tax books because it was owned by the government and then turned over to the railroad company. That land comprising over two and one-half million acres was growing all the time in value and agriculture importance, and, therefore, a necessary ingredient to the successful payment of the various debts of these municipalities, it was taken off. It was not put on the tax books, you see, and for an average of thirty-five years that land paid no taxes at all, and the school districts and road districts and townships and counties and municipalities through which this road runs in thirty-two counties would have to make up for this loss by simply raising the tax on all the land left, and also not being able to tax the right of way of the company itself. That is the average condition of the land, part of it, for thirty-five years; this land has been sold by the Illinois Central Railroad Company, except about seven thousand six hundred acres that still exists as railroad property, as shown by a report from the auditor handed me a few days ago. In Alexander County thirty-seven thousand four hundred thirty-seven acres were given to the Illinois Central Railroad Company, and the Illinois Central Railroad company still retains five hundred seventy-five acres. In Champaign county two hundred sixteen thousand six hundred five acres of the best land, gentlemen, in the State of Illinois, was turned over by the government through the State to the railroad company and kept off the tax books for thirty-five years, and all these municipalities lost all that tax for all that time besides the tax for local purposes that the railroad company under the charter was absolutely exempt from paying, and of course it still loses that portion of the tax. Coles county gave one hundred sixteen thousand three hundred fifty-six acres, and there is left three hundred and ninety acres; Fayette county gave one hundred nine thousand nine hundred eighty-nine acres, and there is still left seven hundred ninety-five acres; Jackson county gave seventy-five thousand two hundred twenty-three, and there is still left four hundred eighty-eight acres; Jo Daviess gave thirty-

two thousand nine hundred eighty acres and there is still left ninety-four acres; McLean county one hundred nine thousand three hundred fifty-seven acres and there is still eighty acres left; Shelby county one hundred thousand six hundred seventy-one acres, and there is still left two hundred acres; Vermilion county one hundred thirty thousand three hundred one acres; Winnebago county one hundred fifty-nine acres; Cook county sixteen thousand three hundred sixty-five acres, and there is still left one hundred twenty-eight acres. This statement shows the number of acres of land granted to the Illinois Central Railroad Company in the several counties in the State of Illinois, and the number of acres unconveyed, not including lands platted and sold by them as town lots, as shown by the records in the office of the Auditor of Public Accounts.

The Illinois Central has paid into the State treasury, gentlemen, since the month of March, 1855, when the first payment was made, down to the month of December, 1919, in toto, forty-four million three hundred thirteen thousand five hundred fifty-four dollars seventy-three cents. It paid this last year, two million two hundred seventy-one thousand three hundred forty-four dollars twelve cents, and it earned during that time thirty-two million four hundred forty-seven thousand six hundred twenty-eight dollars sixty-seven cents. That was the gross earnings of the Illinois Central Railroad Company last year.

Now, this is to my mind a question of equity and good conscience of whether or not that portion of this money that is paid into the State treasury ought to be by the legislature turned into the various counties through which the road runs to the same extent that it would be turned over did not this contract exist between the State and the railroad company with reference to the distribution of this money. This question does not involve in the remotest degree, gentlemen, the integrity of the contract to pay the seven per cent into the State treasury, nor is there anything in the charter that looks to the distribution of the money. All we are asking for here is that when the money is paid into the State treasury that there should be such an equitable and just distribution of it or that the legislature may some time or another see that there should be such an equitable and just distribution of it as would in a measure pay back to the counties that have suffered for the last seventy years and been deprived of this revenue a portion of what they have lost. If it had cost the other counties in the State a penny, if it had cost the State of Illinois as a whole the value of the land that was turned over to the Illinois Central Railroad Company, I would not be heard to say that in equity and good conscience these counties should not be even partially repaid, but such is not the case. We are standing here in the face of a proposition that could be illustrated this way: If the members of this Convention were to form a corporation amounting to fifty million dollars, which this land has brought by sale to the Illinois Central, and thirty per cent of the membership should furnish the money to run this corporation and the other seventy per cent would get the benefit of it the same as the thirty, would it not be equitable and just that the corporation itself should pay the debt that they owed the thirty per cent rather than if they let them go out and put their shoulder to the wheel and stand the brunt all these years of all the expenses of the corporation rather than let them continue to suffer, that the other seventy per cent should at least contribute back the losses of the other stockholders? Now, remember these sections of land would have been sold by the Government to settlers; they would have been put on the tax books and these counties would have received the benefit of the taxes they had lost. Remember, also, if the distribution of this money was made as it is over the Chicago & Alton or any other railroad—I am not talking about the seven per cent, because they always have to pay that, but I am talking about the distribution of it; that if this distribution were made as it is made, upon the mileage on any other railroad, or make it in any other way as the legislature may see fit to make it, would it not be fair and right that these counties who today are policing and protecting this road—and I understand that the great City of Chicago pays out hundreds of thousands of dollars every year in the protection of the Illinois Central property. I un-

derstand that the terminals in the City of Chicago are worth more in cash than the capital stock of the Illinois Central Railroad at par. I understand that if this distribution was made upon a question of valuation that Cook county would probably get half of it. I do not care how it should be made, but it should be made in some way. It is unfair to say that the property that brought to the coffers of the Illinois Central more money than they have paid to the State of Illinois, I say it is manifestly unfair and unjust that these counties through which this property runs are still deprived not only of what they have already lost and suffered; but they will continue to be deprived of any hope of retrieving by way of taxation, although they have policed and maintained and protected this property.

Up to 1885 eighty-two per cent of the freight and passenger traffic on this line of railway was furnished by the citizens of the counties' through which it runs. Why should they pay the taxes for the balance of the state? Since that time an average of fifty-eight per cent is local, so you can see in the seventy years since the operation of this railroad that the wealth of the citizens that live along its line have contributed to the State of Illinois over three-fourths of the seven per cent they have paid in. Do you believe it is right still that this money should be withheld and given to the state at large and these sister counties of yours? School districts and road districts and municipalities, gentlemen, I can name you along the line of these counties. consider that the value of the Illinois Central Railroad, land it still owns in those municipalities, and its right of way and its improvements are worth one-third of all the property in some of these municipalities, and yet they must tax themselves for road purposes but leave this property exempt. They must make out of all the rest of the property enough to pay all their county expenses. Do you think it is right? I can say to you gentlemen who are opposing this proposition, if the State had paid this money then the results of this taxation ought to go back to the State, but it never did it. Therefore, I contend that there is no reason why these lands and this railroad company should be exempt from taxation in our locality and we at the same time be taxed like we are for state purposes and be deprived of the benefits that would result if it were a just system of taxation. Is there a man among you who lives off this line that would today vote that any railroad that runs through your county should pay its taxes into the State treasury and could be used there for the ordinary expenses of the State government and none other? I would like to see the color of the fellow's eye that sits in this Convention that would vote for such a monstrous proposition as that. Suppose you men that live on the C. B. & Q. were confronted with the proposition that from now henceforth all the taxes raised from that railroad should be paid into the State treasury to defray the ordinary expenses of the State government? How many of your school districts and your townships and your municipalities would stand for that? That is the condition we have here. That is the thing that has confronted us for seventy years, and that is the reason why, men, that these men in the Constitutional Convention of 1870 raised the proposition we are now talking about.

Mr. HULL (Cook). Why was it that the Convention of 1870 decided to have the money all turned into the state treasury? Isn't it true that any equities such as you suggested were greater at that time than they are now?

Mr. WALL (Pulaski). No, not nearly so great as they are now, Senator, for the reason the amount that is being paid in now, is maybe ten times greater than then, and therefore, we are being deprived of a great deal more money than at that time. I invite you to read the debates, if you have not done so, of 1870, and read the land grants of Congress upon this subject. I concede without argument that if the state had conveyed instead of the government then there would be no equity in the situation except that the distribution of the taxes from now on ought to be the same as any other line of railroad.

Mr. HULL (Cook). Why was it that the Convention decided to have the money turned into the state treasury?

Mr. WALL (Pulaski). That is an entirely different question. I will answer that separately. The Convention in 1870 by a majority of six decided to leave it as it was, because some member of the convention right at the last raised the question that it would affect the integrity of the seven per cent and nobody was in favor of discharging the railroad company from paying the seven per cent. That is my understanding of it, but if I thought there was any danger of that, if I could see in the most remote degree there was any possibility of that, or anything in the charter that would compel us to distribute this money in the way designated in the Constitution of 1870 I would not stand here and ask the convention notwithstanding the concurrence of the equity and the justice of the case, to ever consider the condition these counties are in, but that is not the fact, and I do not think any lawyer after reading the land grant would for a moment contend we should distribute the money as designated in the present Constitution. There are about thirty-two counties through which this line of railway runs. Those counties it is said are greatly benefitted by this railroad. Isn't it equally true your counties are benefitted? "But," you would say, "some of us contributed to a bonus away back yonder before the Constitution of 1870." That is true, but have not your railroads contributed back to your municipalities ever since they were built in taxes, in payment of your bonus? That is not the fact here. The government makes the bonus and thirty-two counties suffer, Cook county the most, possibly mine the least; we probably would not be benefitted if Cook county got half of this fund over seven or eight or nine hundred dollars in my county, but that would pay a school teacher for teaching eight months of school down in our county. Some poor district would be helped to that extent. I do not know whether if we adopt this section as it is, I doubt if we ever get anything, but I would like to see for the purpose of this Convention acting upon a great conscientious principle, for the purpose, that if you come into a court of equity, come in with clean hands, and if you receive equity, do equity, I would like to see the convention go on record as indicating a desire to at least at some time or other make it possible that these counties that have suffered so long may get something back in return for their patient suffering.

Mr. SHANAHAN (Cook). May I ask you a question: Judge Wall, if your proposition was true, you would have to levy additional state taxes of about one million five hundred thousand dollars annually, wouldn't you?

Mr. WALL (Pulaski). I would not say that, because I do not know. My proposition simply leaves it to the legislature. They might give one-quarter to these counties, one-tenth or half of it, so I do not know.

Mr. SHANAHAN (Cook). Whatever amount they would give you would have to make it up in state taxes?

Mr. WALL (Pulaski). There is no question about that.

Mr. SHANAHAN (Cook). You would have to levy additional state taxes?

Mr. WALL (Pulaski). Whatever the legislature gave to the various counties out of this taxation fund they now paid in would have to be made up by all the counties in the state or the general levy for state purposes. I am for leaving it to the legislature as to whether we get anything.

Mr. SHANAHAN (Cook). What I am trying to get at, you will put additional taxes on the people of the State?

Mr. WALL (Pulaski). Certainly, whatever money would be voted to these counties out of this fund would have to be made up by general taxes for state purposes.

Mr. SUTHERLAND (Cook). I move that debate be now closed.

Mr. HULL (Cook). I trust that the gentleman from Cook will defer his motion for a moment.

Mr. SUTHERLAND (Cook). I will withdraw the motion on the request of the delegate from Cook.

Mr. HULL (Cook.) It would appear to me that if there were any equities they were larger than they are now. The unsold lands were larger then than now and the whole argument seems to go to the point to build a great railway was a burden on the community through which the railroad

runs. I venture to say that the people in the counties through which the railroad went considered it a tremendous benefit to them locally, and the loss in taxes in those particular counties was more than compensated in benefits received in having the railroad go through those counties. I cannot see any particular equity in favor of those counties. I confess some confusion of thought on that subject, but I think the compensation was adequate to any loss sustained in taxing powers through the withdrawal of certain lands from taxation.

Mr. WALL (Pulaski). Is that not true of every other railroad in the state?

Mr. HULL (Cook). I have no doubt there is something in that argument. The Illinois Central was built first.

Mr. MOORE (Macon). I would like to say that I appreciate the argument of the gentleman from Pulaski; he has rather waked me up to a sense of my duty. I represent two counties through which the Illinois Central passes, and I am afraid I have been very derelict in my duty that I have not discovered the great losses that have occurred to these counties by reason of the loss of the income from the Illinois Central Railroad. I believe that the counties I represent have been very much benefitted by having the Illinois Central Railroad run through them, and I would like to ask the gentleman from Pulaski (Wall) if the growth of several good towns and the increase in value of farm lands and the proximity to market that has been given to us through the instrumentality of the Illinois Central Railroad could not very fairly be taken as compensation for the small losses we have undergone in taxation.

Mr. WALL (Pulaski). The answer is, it could not be taken into consideration as compensation any more than it can be taken into consideration as compensation for the benefits derived from the Chicago, Burlington & Quincy, the Chicago & Alton, or any other line in that part of the State through which they run, and the Illinois Central Railroad Company has received fifty million dollars for this land it took out of your county and mine and others, which is more money than it has ever paid into the state treasury of the State of Illinois since it existed, and your county and mine and others all this time suffered untold financial hardship and the railroad company has not paid into your treasuries a penny of revenue.

Mr. MOORE (Macon). The only agitation I have heard has been in favor of releasing the Illinois Central Railroad from its contracts. I am in favor of the amendment.

Mr. BARR (Will). I rather think that the county from which I come is as nearly neutral on this subject as can be the situation in any county. I have endeavored to figure out what the effect would be in case a proportion or part of the proceeds of this tax, if you may term it a tax, upon the gross income of the Illinois Central would have upon our county. It runs through just two townships, and the balance of the townships of the county are not affected, insofar as their ability to assess taxes are concerned, excepting the county tax. Of course, you must bear in mind that this removal of the Illinois Central property from local taxation takes it out of every school district, as has been stated, takes it out of every village, takes it out of every taxing body of every kind and deprives local communities through which the Illinois Central runs of that amount of property for local taxation purposes, but when the matter was suggested to me by some of the members who live in the districts through which the Illinois Central Railroad runs and in which the Illinois Central Railroad Company owns a large amount of property, who showed me that those school districts were deprived of that amount of property for taxing purposes for their schools and their towns and their villages, it occurred to me as a matter of justice and equity those communities ought to receive some portion of that tax that was paid into the State treasury different from the communities that were not deprived of any tax or of any property for taxing purposes.

The question of the delegate from Cook (Senator Hull) I was interested in, and I remember particularly from reading the debates that occurred in

the Convention of 1870, I think the reason why that Convention wrote into the Constitution the provision that the proceeds of this tax should always be used for State purposes, it was considered and appeared in the discussion at that time that it was complained that that part through which the Illinois Central Railroad Company operated had improved, and the value of its property was greater than the value of the property in other sections of the State, and at that time it appeared to the delegate in that Constitutional Convention that the taxing bodies on account of the fact that other property in the vicinity had been made more valuable by virtue of the fact this railroad had been constructed could well afford to be deprived of that amount of property for taxing purposes.

I submit to you, gentlemen, that conditions in Illinois have changed very decidedly since 1870 with regard to the relative value of property lying along the Illinois Central Railroad, and towns and villages and in school districts along the Illinois Central Railroad, and other parts of the state. It is true it runs through the richest part of the state and towns and villages have grown up, but as compared with other parts of the state at this time there is no advantage in my judgment, in value of the property lying along the Illinois Central as compared with the property lying along many of the other railroads in many parts of the state, and the argument that justified the delegates in the Convention in 1870 in refusing at that time to permit the proceeds of this tax to be distributed, at least in part, to the taxing bodies along that road does not exist at this time. The developing of our State has been such there is not any advantage to the taxing bodies in the value of property along the Illinois Central Railroad Company that gives to them an advantage, so it overcomes the disadvantages that they have been suffering for a period of seventy years by virtue of the fact they have not been permitted to tax this property, and it seems to me as a matter of equity, and I think we have a right, but of course we will forget any matter of local advantage or local disadvantage—we are going to sit in this convention as delegates from the State of Illinois, and we are going to settle these questions as citizens of the State of Illinois and not as citizens of any town or county or school district, and if it is true that a number of the municipalities and the school districts and the counties and towns of this state are inequitably treated by virtue of the fact they are being deprived of part of the property they should be permitted to tax, then I believe that the delegates to this Convention from the counties that do not contain any of these municipalities will stand up and vote for the thing that is equitable and right to those districts that have been deprived, which in my judgment is nothing except what is equitable and right, and I think, gentlemen, that this convention should provide in this Constitution that the proceeds of the Illinois Central Railroad Company should be subject to be disbursed by the legislature in such manner as is right and fair, and I believe that the legislature is going to do that which is equitable, and I want to say, too, in reply to the question that was asked by the Speaker of the House, that of course if the money is necessary to carry on the state government, including that which is taken from the Illinois Central, it will be necessary to increase taxes, why should not the people all over the state be willing to have an increase in taxes, if that tax is necessary to pay the running expenses of this state, rather than to put the hands of the state into the pockets of those who live in the taxing districts along the Illinois Central Railroad Company and compel them to pay what properly belongs to the state simply because they happen to be in those localities? It appears to me, gentlemen, as a matter of equity and fair dealing that the proceeds of this tax should be subject to being disbursed by the legislature along the lines of fairness and equity and justice.

Mr. DIETZ (Rock Island). Mr. Chairman, and gentlemen of the Convention: There is no part of the State of Illinois which on principle, and the principle is here involved, should be obliged to bear any greater burden of the cost of running and operating the State of Illinois than any other portion of the State of Illinois. The Illinois Central Railroad does not run through any part of the district from which the thirty-third district

is made up. Therefore, I view it as a matter of principle, solely. No one can see any fairness or any justice that those parts of the State of Illinois in which lies the property of the Illinois Central Railroad Company should not have a right to use that property to sustain the burdens which surround the immediate localities there, and if any such argument can be advanced, and we have heard none, you could carry the principle far enough to require those counties in the State to bear the entire burden of the state government, and certainly no one would consent to that as a sound principle of government, or a sane method of taxation. It has been well suggested by the delegate from Will (Barr) conditions have vastly changed since the time of the constitutional convention of 1870, and if we are going to be fair and decide this matter according to principle, we are going to allow those counties the same right to use that property for the purposes of taxation that we do similar properties in every other county in the state.

Mr. SIX (Pike). It occurs to me that the Illinois Central Railroad Company was developed and built either as a State enterprise or as a private enterprise. The history of the line shows it was started in 1836, and for fifteen years was backed by the State in various ways, the State contributing at least by one appropriation, the sum of three million, five hundred thousand dollars, and finally in 1851, after a grant had been secured from Congress by the State, not by grant to the corporation, until the State decided to turn it over, did the Illinois Central as a private corporation undertake the proposition. At that time there were valuable rights ceded by the State, so you may say what you will, the Illinois Central started as a State enterprise and the communities through which it was built benefited the same as any other communities benefit by a State enterprise. It therefore should bear the burden not only at the time it had the advantages, but also for all future time, because of those advantages which it has had and the contribution which it continues to make to the communities. I venture there are railroads in the State of Illinois, that delegates would gladly exchange for the Illinois Central together with the annual tax on them for a like service, or for a corporation as strongly fortified by assets as is the Illinois Central, and without any taxes. It is only fair you make some constitutional arrangement of paying back to communities who have had the benefits as long as have these communities. The delegate from Pulaski (Wall) has told you that for thirty-five years the communities suffered as the result of no taxes on certain lands. I may state that lands adjoining these were sold for taxes and were forfeited to the State. I think that is true in a number of sections. With regard to the distribution of this tax, I can see no harm to the particular counties that have had these benefits, and I can see great harm to the State of Illinois if we attempt to distribute the funds in any different way than we have been doing it since 1870. I shall favor the retention of the present article in the Constitution of 1870, which is made herein as an amendment.

Mr. GOODYEAR (Iroquois). May I ask the delegate a question? You said the State of Illinois had contributed three million five hundred thousand dollars to this road?

Mr. SIX (Pike). Yes.

Mr. GOODYEAR (Iroquois). I am asking if this provision in the latter part of the Constitution of 1870, which provides that all money derived from said company after the payment of the State debts—what does that mean if it does not refer to the repayment of the three million five hundred thousand dollars?

Mr. SIX (Pike). This would not have anything to do with the argument I made. It is true that immediately upon receiving the land they mortgaged it for seventeen million. That was the thing, and not the fact they owed the debt, but they had the right to go ahead on the security, and that was due to state backing and not due to private enterprise.

CHAIRMAN FYKE. The question is on the substitute to the amendment offered by the gentleman from Cook.

(Motion lost.)

CHAIRMAN FYKE. The question now is on the amendment offered by the gentleman from Mercer (Carlstrom), which substitutes the present section one of the Constitution for the committee's report.

(Motion prevailed, 41 to 21.)

CHAIRMAN FYKE. The question is now on the adoption of section eight as amended.

Mr. LINDLY (Bond). I move its adoption, Mr. Chairman.

(Section eight adopted.)

Mr. MICHAL (Cook). I have sent up to the clerk to be read an additional section, and I will ask him now to read it.

THE SECRETARY (Reading). "No person, firm, corporation or joint stock company or association whatsoever, shall carry on, conduct or operate the business of a bank, or foreign exchange in connection with the sale of steamship passage or otherwise, nor use, employ or display in any manner whatsoever, the term bank, banker, savings depository or any other word or phrase of similar import in any language except as a corporation under the general banking laws."

Mr. MICHAL (Cook). That is to put an affectual bar upon the operations of all these enterprising foreigners who engage in the exchange of foreign money, steamship passage and accept deposits. It means millions and millions of dollars have been taken away by these unscrupulous people. This has the endorsement of all newspapers, particularly in Chicago, where it has been keenly felt that such legislation was necessary.

Mr. DEYOUNG (Cook). Did you get this out of the existing banking laws?

Mr. MICHAL (Cook). Yes.

Mr. DEYOUNG (Cook). Do you think there is any necessity for putting this into the Constitution?

Mr. MICHAL (Cook). You never can tell what the legislature will do; they may repeal it at the next session.

CHAIRMAN FYKE. The question is on the amendment offered by the delegate from Cook (Michal).

(Motion lost.)

Mr. GREEN (Champaign). The judiciary committee was in session at the time you considered section four, and I came into the room with the other members of the committee just at the time the proposition of voting for the incorporation of that section. It was voted upon, and I voted in the affirmative for the reason that I wanted to be in a position to make a motion to reconsider, inasmuch as I had not heard the debate. I want to make a motion to reconsider section four for the purpose of presenting anew the question of striking out the second paragraph of that section. I would like to give my reasons for it. The substance of that section is to require the names of stockholders of banks to be recorded in the county where the principal office of the bank is located. By common rule of construction, there is great danger that if that were written into the constitution it might be construed to exclude the power of requiring the same information to be recorded either with the secretary of state or with some other state officer in any county except the county in which the principal office of the bank is located.

With the growing industry of Illinois, the growing conditions in Illinois, it might bring about a necessity for change in that legislative provision, and all will admit it is legislative. It seems to me we ought to have opportunity to consider whether we want to bind the State on that section.

CHAIRMAN FYKE. The question is to reconsider the vote on section four.

(Motion prevailed.)

Mr. GREEN (Champaign). Now, I move the second paragraph of section four be eliminated from the section as adopted.

CHAIRMAN FYKE. The question is on the motion of the gentleman from Champaign (Green) that the second paragraph of section four be eliminated. I will ask the secretary to read the second paragraph.

THE SECRETARY (Reading). "The names of all stockholders of

banking corporations or associations, organized under the laws of this State, the amount of stock held by each, the time of any transfer thereof and to whom such transfer is made, shall be recorded in the office of the recorder of deeds in the county in which the principal office of such bank is located."

(Motion prevailed.)

Mr. HAMILL (Cook). I move that section four as now amended by the elimination of the second paragraph be adopted.

(Motion prevailed.)

Mr. STAHL (Stevenson). I move that section nine be added to the majority report to read as follows: "The General Assembly shall pass laws to correct abuses and prevent unjust discrimination and extortion in the rates charged consumers by public service corporations in this State, and enforce such laws by adequate penalties to the extent, if necessary for that purpose, of forfeiture of their property and franchise."

Mr. HAMILL (Cook). Inasmuch as this argument will probably take some time, I move that the committee do now rise and report progress.

(Motion prevailed.)

(President Woodward presiding.)

Mr. FYKE (Marion). The Committee of the Whole reports progress on the matters before it and asks leave to sit again.

(Report adopted.)

Mr. SHANAHAN (Cook). I move the Convention do now adjourn until nine o'clock tomorrow morning.

(Motion prevailed.)

Whereupon an adjournment was taken by the Convention to Wednesday, May 26, A. D., 1920, 9 o'clock a. m.

WEDNESDAY, MAY 26, 1920.**9:00 o'Clock A. M.**

The Convention met pursuant to adjournment.

The President in the chair.

Prayer by the Chaplain.

THE PRESIDENT. The Journal of Thursday, May 20, A. D. 1920, was placed on the desks of the delegates on yesterday and is now subject to correction. There being no corrections proposed, the Journal of Thursday, May 20, 1920, will stand approved, and it is so ordered.

Whereupon the Convention proceeded upon the order of special orders of the day, reports of standing committees.

Mr. HAMILL (Cook). I have a report from the Committee on Phraseology and Style.

Your Committee on Phraseology and Style, to which was referred a proposal to provide for the military (Intr. No. 339, Ref. No. 2) as amended in Committee of the Whole, respectfully reports that it has considered said proposal and recommends that the following amendments be made therein:

1. In line 5 of section 1, of Ref. No. 2, strike out the word "provided" after the words "of this State."

2. In line 5 of said section, strike out the word "shall" after the words "no person" and add the word "shall" in the sixth line of said section between the words "arms" and "be."

3. In line 6 of said section, after the word "exempted" and before the word "from" add the words "by the laws of this State."

4. In line 7 of said section insert the word "any" before the word "military."

5. In lines 7 and 8 of said section, strike out the words "in any capacity that the Governor shall declare to be non-combatant" and insert in lieu thereof "declared by the Governor to be non-combatant."

6. In line 1 of section 4 before the initial word "The" insert the words "members of." After the initial word "The" insert the word "organized."

7. In line 2 of section 4 at the end thereof, after the word "and" insert the word "military."

8. In line 1 of section 4, after the word "militia" and before the word "in," strike out the word "shall," and in line 2 of said section 4 after the word "peace" and before the word "be," insert the word "shall."

9. In line 2 of section 4 after the word "at" and before the word "musters" insert the words, "and in going to and returning from," and in line 3 of said section 4 strike out the words, "and in going to and returning from the same."

10. In lines 2, 3 and 4 of section 5, strike out the words "and it shall be the duty of the General Assembly to provide by law for the safe keeping of the same;" in line 2 of said section 5, after the word "preserved" and before the word "as," insert the words "and safely kept;" and in line 2 of said section 5, after the words "valor of" and before the word "Illinois," insert the words "the men of."

Your Committee on Phraseology and Style have thought it inexpedient on the first reference to this committee to attempt a comparison of each separate article with the corresponding article in the original instrument evidencing the Constitution of 1870, because of the inconvenience which would be so occasioned to the Secretary of State, the custodian of that instrument. Such comparison will be made by your committee on the final reference. The draft of the article now under consideration which came to your committee on Phraseology and Style has been compared with the existing Constitution, as it appears in a copy printed under the authority of

the State in 1917. Such comparison shows some departures in punctuation and in section 1 a change of the figures "18" and "45" to the words "eighteen" and "forty-five." Your committee recommends that the punctuation of the existing Constitution be preserved and the words "eighteen" and "forty-five" of the proposal retained.

(Signed) CHARLES H. HAMILL, *Chairman*,
EUGENE H. DUPEE,
C. B. T. MOORE,
ELAM L. CLARKE,
H. E. TORRANCE,
THOS. RINAKER,
GEORGE A. BARR,

Committee on Phraseology and Style.

THE PRESIDENT. The report of the committee will be printed and placed on the order of second reading.

Whereupon the Convention proceeded upon the order of reports of select committees, introduction of proposals, first and second reading of proposals, motions and resolutions.

Mr. FYKE (Marion). I have a collection of petitions from the citizens of Effingham county with reference to reading the Bible in the public schools, which I will ask to have referred to the proper committee.

THE PRESIDENT. Without objections the petitions will be referred to the Committee on Bill of Rights.

Mr. McEWEN (Cook). I have a similar petition from the residents of the district in which I live, which I ask to have a similar disposition made.

Mr. DRYER (Montgomery). I have a similar petition which I will ask to have referred to the proper committee.

THE PRESIDENT. Without objections the petitions will be referred to the Committee on Bill of Rights.

Whereupon the Convention proceeded upon the order of unfinished business.

THE PRESIDENT. A vacancy has been occasioned in the Committee on Schedules caused by the death of Senator Curtis. Delegate Taff of Fulton county is appointed by the chair to fill the vacancy on that committee.

Whereupon the Convention further proceeded upon the order of general orders of the day.

THE PRESIDENT. Proceeding on the general orders, the Convention will now resolve itself into the Committee of the Whole. Delegate Fyke is designated to act as chairman of the Committee of the Whole.

(Chairman Fyke presiding.)

CHAIRMAN FYKE. The committee will be in order. The clerk will read the minutes of the preceding meeting.

(Minutes read by clerk.)

CHAIRMAN FYKE. The question is on the motion of the delegate from Stephenson (Stahl).

Mr. STAHL (Stephenson). I have very few words to say in regard to this proposal. In the list of suggested changes by the reference bureau the statement is made in this language: "A general provision requiring the General Assembly to pass laws for the regulation of public service corporations is desirable." I think most of us living in municipalities throughout the State believe that such a proposition is desirable. I do not care to take up the time of the Convention in argument or give many illustrations which might be given which would justify the action of this Convention in regard to matters of this kind. We have many illustrations of it throughout the State, and I request before this matter is voted upon that it be given very careful consideration by the members of this Convention.

CHAIRMAN FYKE. The chair desires to say on behalf of the committee this section received discussion in the committee and was left out of our report for the reason we assumed and thought we knew the General Assembly already had this power and had exercised and was exercising it.

That is the committee's explanation for the reason this was not carried into the majority report.

Mr. HAMILL (Cook). May I be permitted to say that I do not suppose a lawyer in the Convention would challenge the conclusion of the committee on this proposition.

(Motion lost.)

Mr. ELTING (McDonough). I now move that section two of the minority report be made an additional section to the article on corporations. Section two is just the same as section thirteen of the Constitution of 1870, with the exception that the word "railroad" is eliminated after the word "no" in the first line of the first section. In the Constitution of 1870 this section applies to railroads exclusively. The minority report endeavors to make it apply to all corporations generally. The main part of this section is, "No corporation shall issue any stock or bonds, except for money, labor or property, actually received, and applied to the purpose for which such corporation was created." That is the main part of that section, and that is the part that I think should be applied to all corporations. I do not know why this section was made to apply solely to railroad corporations, but the conclusion is this, that if it was a beneficial article in the Constitution as applied to railroads, why not apply it to all corporations? The object of the section was to require that stock that was put upon the market for sale should truly represent what it was intended to represent. That is the object of the minority report in bringing this before you for discussion and adoption, if you see fit. For myself, I favor this Convention assisting the Secretary of State's office in the blue sky work. No harm can come from making shares of stock just as good as they are intended to be made, and I do not think that it is just that we should leave all these things to the Legislature, and the inference might be drawn from the Supreme Court, if we left this out of the Constitution, after it has been there for fifty years, that we were not standing for this proposition. Therefore, I think we should consider this section, and if agreeable to the Convention, adopt the section.

CHAIRMAN FYKE. The chair will say the committee left this section out of its majority report for reasons stated a few moments ago. Anybody who has had experience in organization of country corporations know that the statute requires just the thing that is asked for in the first sentence of the minority report, and the committee took the position that it would be an unwarranted slap at legitimate business methods to make the issuance of stock dividends a crime.

Mr. GILBERT (Jefferson). I am not for the language in the minority report, but I think the principle set out in that section is the one that ought to be retained in the Constitution. I want to offer an amendment, if the gentleman will consider an amendment, covering that point, which will only provide this: "No corporation shall issue any shares of capital stock, bonds or other evidence of indebtedness, except for money, labor or property actually received and applied to the purposes for which such corporation was organized." The section as offered by the minority report has in it that stock dividends cannot be issued. Of course, stock dividends can be perfectly legitimate. It is not necessarily fictitious, but I do believe that this provision which you find, gentlemen, in many Constitutions of the various States of the Union, even the State of Delaware has that language in its Constitution—I do not know how effective it is, but it is in their Constitution.

CHAIRMAN FYKE. Does the gentleman from McDonough accept this?

Mr. ELTING (McDonough). Yes.

Mr. GREEN (Champaign). How would you tell in advance whether the money was applied for the purpose for which the corporation was organized, where it affected the validity of the stock?

Mr. GILBERT (Jefferson). That might be sometimes hard to do.

Mr. GREEN (Champaign). You could do it, could you?

Mr. GILBERT (Jefferson). That provision is in many of the constitutions of the various states of the Union, and it should be for the benefit

of the corporations, and a provision of that kind would certainly have a moral effect, whether or not in every case the corporation would see to it that it was applied to the purpose for which it was intended.

Mr. GREEN (Champaign). Do you think it would be good policy that the Constitution contain sections for their moral effect where it would be very doubtful of their application?

Mr. GILBERT (Jefferson). I think this is a good provision to go into the constitution. I think it would have the effect of stating the position of the basic law governing corporations, the stock should not be water, should not be fictitious, but that it was the intention of the State of Illinois that such shares of stock should be issued only for labor, property of something of value. I think that is sound.

Mr. MORRIS (Cook). It strikes me that the provision might be so construed as to require the holder of the stock to see to the application of the fund or money paid, and therefore, a court might possibly hold that unless he did so the stock would be of no value in his hand. I do not think that the provision ought to be put in the Constitution, owing to the fact it is at least susceptible of more than one construction.

Mr. MILLER (Cook). Will the gentleman yield to a question? How do you think it would affect the ability of a corporation to get money on its stock, if the stockholder could not tell until after the stock was sold, after he had paid for it, whether it was valid or invalid?

Mr. GILBERT (Jefferson). I do not think that the delegate from Cook (Miller) and I understand this alike. This provision requires, and for that matter the statute of the State of Illinois now requires, as has been stated by the chairman of this committee, the very thing that the delegates are now objecting to. Our statute now has such a provision, that stock shall only be issued for labor or property or money inuring to the benefit of the corporation. That is the statute.

Mr. MILLER (Cook). It does not say it shall be applied for the purposes of the corporation?

Mr. GILBERT (Jefferson). Yes, I think it does.

Mr. MILLER (Cook). Does it say the stock shall be void?

Mr. GILBERT (Jefferson). Not the amendment I offered. The original section as it appeared after the word "stock" in the old article, and as it appeared in the substitute of Mr. Elting has that provision. I have no such provision.

Mr. MILLER (Cook). Does it say the money must, in order to make the stock good, be applied for the purposes of the corporation?

Mr. GILBERT (Jefferson). No, but why? Should it be otherwise applied?

Mr. MILLER (Cook.) No, but this says no stock shall be issued unless the money is so applied.

Mr. GILBERT (Jefferson). A corporation has no right to issue shares of stock unless money or property has been received for the use of the corporation. I think we all know that the person subscribing for stock in paying the money would not be charged with the performance of a duty belonging to the officers of the corporation. It is their duty to apply it. I do not think it is possible to place two constructions on this language.

Mr. MILLER (Cook). It seems to me the construction suggested by the delegate from Cook, Mr. Morris, is reasonable.

CHAIRMAN FYKE: The question is on the substitute offered by the gentlemen from Jefferson (Gilbert) which was accepted by the gentleman from McDonough (Elting).

(Motion lost.)

Mr. ELTING (McDonough). I now move you that section four of the minority report be accepted as section No. nine, which provides as follows: "No law shall be passed by the General Assembly, granting the right to construct and operate a street railroad within any city, town or incorporated village, without requiring the consent of the local authorities having the control of the street or highway proposed to be occupied by such street

railroad". This is practically the same as section four in the Constitution of 1870.

CHAIRMAN FYKE. May the chair interrupt the gentleman to say that this section was referred by the Committee on Rules and Procedure to the Committee on Municipal Government.

Mr. CARLSTROM (Mercer). The Committee on Municipal Government in co-operation with the Committee on Chicago and Cook county will offer a section covering that point.

Mr. SUTHERLAND (Cook). I offered this yesterday, and the delegate from Cook raised the point it was not germane. I think it might be well to adopt this temporarily, and I will suggest in supporting the motion of the delegate who has just offered this amendment, that we put it into the corporation article temporarily, with the distinct understanding that the committee on Phraseology and Style may transplant it and put it in the most convenient place.

Mr. HULL (Cook). It seems to me that might apply to any use of the public way, and I am going to offer as a substitute a provision that has been tentatively approved by the Chicago Committee. I will ask the clerk to read the amendment.

THE SECRETARY (Reading). "No law shall be passed by the General Assembly granting the right to construct or operate any public utility within the city, village or incorporated town requiring the occupation or use of streets, alleys or public ways by permanent fixtures or equipment without requiring the consent of the corporate authorities."

CHAIRMAN FYKE. Is that satisfactory?

Mr. ELTING (McDonough). My object in putting this section in was to get it somewhere in the Constitution. It has been suggested that this has been referred to other committees, but until it has been landed in the Constitution some place, I think the proper place was in the article on corporations, and it was with that in view that I brought it in here as the minority report.

I think this is a very important section, and my idea was that we include it in the article on corporations and that the Committee on Phraseology and Style, under their powers, if we had two sections in two articles that were the same, they could eliminate or correlate these conflicting conditions. We will have to pass on this article some time, and it is important it be in the Constitution, and as I understand the substitute of the delegate from Cook is making it apply to all public utilities instead of railroad corporations. Without any careful examination, I cannot see but what that is a good suggestion, and for the purpose of getting it before the Convention will consent to the proposed amendment.

Mr. HAMILL (Cook). Yesterday when this resolution was offered I raised the point of order, that it was not germane, and the point of order was sustained. I do not care to press that point further now, because I think possibly it is wiser that the committee should have an opportunity of voting upon this question. I still think the point of order I raised yesterday was well taken. It does seem to me it is not germane to the subject we are now discussing. The proposed section deals first with the power of the General Assembly to pass laws, and, secondly, with the laws with reference to municipalities. It is clear, therefore, it seems to me that the section, if it is to be adopted, should be considered with the report of the legislative committee, or with the report of the Committee on Municipalities, and it is not in order in dealing with the subject of corporations, which has to do with the relation of the corporation to the State, the organization and powers of the corporation, the charter powers, and I am opposed to the consideration of this subject at this time.

CHAIRMAN FYKE. The chair agrees with the gentleman from Cook that this matter is not strictly in line with the proprieties, and my personal view is any protection afforded by this section could be had by leaving the consideration of it, if necessary, until the second reading of the report, but there is no desire on the part of the chair to prevent the committee from handling this this morning, if they so desire. The ques-

tion is on the amendment offered by the gentleman from Cook, accepted by the gentleman from McDonough.

(Motion prevailed.)

Mr. ELTING (McDonough). I now move you that section seven of the minority report be added to the article on corporations. This section is section seven of the Constitution of 1870, by inserting after the word "state" in the fifth line from the top of section seven, the following words: "And every person, partnership or firm engaged in the banking business, shall at all times be subject to an examination and control by the State authorities." The old section as amended will read as follows: "Every banking association now, or which may hereafter be organized under the laws of this State, and every person, partnership or firm engaged in the banking business shall at all times be subject to examination and control by the State authorities, and shall make and publish a full and accurate quarterly statement of its affairs, which shall be certified to under oath by one or more of its officers as may be provided by law." I think this is a very important section and should be made a part of the new Constitution.

CHAIRMAN FYKE. I want to say on behalf of the committee that this section was considered, and because the banking law had been voted on by the people in the State in the last two or three years, and they had expressed themselves on the matter the committee thought it would be surplusage in the Constitution.

Mr. SIX (Pike). Is it your understanding that section seven would prevent the legislature from enacting such a law as was passed some time ago.

Mr. ELTING (McDonough). Yes, it might by inference.

Mr. SIX (Pike). Do you think the fact that the banking business is peculiarly a business of fiduciary character might change the rule?

Mr. ELTING (McDonough). I inserted it because that was the great objection, the people were influenced to vote against the individual bankers.

Mr. SIX (Pike). I am for your proposition in allowing the individual to engage in the banking business; I do not think the individual should be excluded from any line he wishes to engage in, provided the public is willing.

Mr. TRAEGER (Cook). I notice in section seven you say, "shall make and publish a full and accurate quarterly statement of its affairs which shall be certified to under oath by one or more of its officers as may be provided by law". As I understand this, you are giving the state only a limited right to inspect the banks in this state. I, for one want to say we are going back. Our legislature has seen fit in the past to change the law and do away with the so-called private banking, and I think this minority report clause presented by the gentleman from McDonough should be in the Constitution. We cannot be too cautious to protect the people of this State, the depositors, the classes of people who, when they see the sign "bank" is placed in front of a business will take their money and deposit it there. We have seen in the past where those unfortunates have been placed, and every protection should be given to that class of people. If I had my way, I believe I would be more stringent and have the banks examined much oftener than they are for the protection of the public. We are assuming that no banker is dishonest but as has been said of public officials, they are sometimes dishonest, and bankers are only human and likely to be just as dishonest as public officials. Therefore, I would advise we be very cautious in passing a constitution which might later be construed for the benefit of a few of the large and do away with the smaller banks. No matter who the man may be who might want to engage in the banking business, why entitle him to engage in that business unless he subjects himself to such examination as the state might want to make from time to time? This should be done in order to protect unfortunate depositors and I think we should take extra precautions along this line.

Mr. DEYOUNG (Cook). I do not believe the gentleman from Cook who spoke last fully appreciates what the adoption of the section of the minority report would lead to. If this clause be added to what the existing Consti-

tution provides, we will permit individuals to engage in the banking business in Illinois, and the legislation for the regulation of private banks requiring the incorporation approved by the people might be held in the future to be unconstitutional. No one at all acquainted with the efforts to regulate private banks in this state, and I am one of the very last men to assail the character and the integrity of the great number of responsible and respectable private bankers in this state, but the fact remains that particularly in the centers of population a great many irresponsible men do embark in the banking business without right of the State to examine them and call them to account. In this hall in several General Assemblies, even long before I served here, there was an attempt made to regulate private banks, and in the fiftieth and fifty-first General Assembly they found it necessary to require their incorporation in order that the innocent and ignorant depositor might be protected. The statement made that an individual has the right to engage in any and all kinds of business leaves much to be desired. The state has the right to prescribe the condition upon which certain kinds of business may be embarked upon, and one of these is the banking business, and the gentleman from Cook (Hamill) calls my attention to the insurance business—and other examples might be cited—so the statement that the individual has the inherent right to engage in all kinds of business is not legally sound. It would be the part of retrogression for this constitutional convention to propose that individuals in Illinois may engage, at least by implication, in the banking business. It was a long and weary struggle in the halls of legislation in Illinois to require the incorporation, and the day is just about to dawn when men engaged in the banking business will be required to account periodically when they can't be checked. This is not the time to take a step backward, and with all respect to the gentleman from McDonough, I am very much convinced because of the experiences we have had with bankers in the large cities and some others, and I need not even confine the indictment to the large cities, because the records of the supreme and appellate courts of course demonstrate that some of the gravest abuses in the matter of private banks have taken place in the rural districts of Illinois. Certainly the day has not come when we should say that every individual has the right inherently to engage in the banking business. It seems to me this proposition ought to be defeated. (Applause.)

Mr. REVELL (Cook). I have not been able to follow the committee report as well as I should, and I would like to ask you if there is anything in that committee report which would lead to avoid such a catastrophe as occurred in Chicago a few years ago in the failure of the private banking institution of Graham and Son.

Mr. DEYOUNG (Cook). You will observe by implication this permits individuals to engage in the banking business. Now, we have one of the most notable instances of the abuse that may result from that in LaSalle county, which found its way to the criminal court and a conviction was recently affirmed in the supreme court of Illinois, where upwards of a half million dollars was misappropriated by the two bankers engaged in business there. This is in a small village. These abuses occur in some of the smallest hamlets of the state. These things were considered by the several general assemblies that had the matter under consideration. If we open the door to unrestricted banking business, we will do it by this section the gentleman seeks to incorporate in the Constitution.

Mr. ELTING (McDonough). You made the statement that the legislature had this matter up and they were unable to make any law to regulate private bankers.

Mr. DEYOUNG (Cook). I did not say that.

Mr. ELTING (McDonough). I misunderstood you.

Mr. DEYOUNG (Cook). I said the General Assembly of this State found it necessary to require incorporation in order to properly regulate them.

Mr. ELTING (McDonough). What was the reason they found it necessary to require them to incorporate?

Mr. DEYOUNG (Cook). Because the State has certain powers with reference to corporations that it does not have with reference to individuals. The same thing is true in the National Bank Act. You recognize the right of individuals to engage in the banking business by your proposal. That is my objection to it.

Mr. ELTING (McDonough). What is your object in depriving the private banker of this right?

Mr. DEYOUNG (Cook). Because we have found by experience in order to regulate that business, which has the custody of funds and money belonging to innocent and poor depositors, and therefore requires a higher degree of regulation than other businesses, and the legislature found it necessary to require incorporation in order to have that examination, which it cannot exercise when an individual engages in business.

Mr. ELTING (McDonough). Haven't these poor people the same access to the incorporated banks as the individual bank?

Mr. DEYOUNG (Cook). Assuredly.

Mr. ELTING (McDonough). And the individual banks monopolize the business in those communities?

Mr. DEYOUNG (Cook). There did not happen to be any in the community in LaSalle county to which I referred. They did not have the same access.

Mr. ELTING (McDonough). I would like for you to give me a comparative statement of the amount lost through incorporated banks in Chicago as compared with the amount lost through individual banks.

Mr. DEYOUNG (Cook). I do not happen to be an encyclopedia of statistics, but that information is easily available.

Mr. ELTING (McDonough). Is it not a fact more money has been lost through corporations in Chicago in the banking business than in the individual banks?

Mr. DEYOUNG (Cook). I should say there was not, but I do not happen to know the figures. There is no comparison in the amounts deposited in private and incorporated banks.

Mr. IRELAND (Woodford). You are right: there has been more money lost through the organized banks in Cook county than private banks, but you are going back to a time that you cannot reckon on today; the failure by organized banks in the city of Chicago cannot happen today that could a few years ago. If you take the statistics going back for years, before they had the examination by their clearing house department, you are right, but if you start from the time that the clearing-house association put also an examiner in the field, you are wrong.

Mr. DUNLAP (Champaign). I desire to offer an amendment to the amendment, striking out the words in italics, "every person, partnership or firm engaged in the banking business."

Mr. GILBERT (Jefferson). May I be permitted to ask just one question, if the present banking act passed by the legislature does not provide that all private banks shall complete their incorporation by a certain time, and after that private banking is forbidden under the law?

Mr. DEYOUNG (Cook). Yes. The reason for that was that the legislature did not see fit to require their incorporation immediately. They were given time to adjust their investments. It was admitted to the committees that a great many bankers had investments which the bank examiners would not approve. Anybody knows that a private banker has had a wider latitude, or exercised it, in the way of making investments.

Mr. GILBERT (Jefferson). As a member of this Convention, who is interested in private banks which expect to incorporate, I think it is a proper law, and I hope the delegate from McDonough will accept the amendment striking out of these words, "and every person, partnership or firm engaged in the banking business," and leave it without those objectionable words. I believe the delegate from Cook is right and that the General Assembly was right in concluding that the banking business, being an entirely different line, should be under the direct control of the State, and I do not believe that individuals should longer be permitted to conduct banking

business, and at the same time I think all these reports and the most rigid regulations should be required, and that this section ought to be retained without those words.

Mr. DEYOUNG (Cook). I have no quarrel with the existing constitutional provision. My objection to permitting private individuals to incorporate in the banking business is because the long experience of the State has arrived at a contrary conclusion.

Mr. ELTING (McDonough). In regard to the Lorimer failure, that was an incorporated bank?

Mr. DEYOUNG (Cook). Yes, I think it was, but it was discovered, may I suggest to the gentleman from McDonough, and that may not have been the case in all probability if it had been a private bank.

Mr. TODD (Peoria). What do you hope to accomplish by inserting any portion of this section in the Constitution?

Mr. ELTING (McDonough). Well, I hope to recognize the right of the individual.

Mr. TODD (Peoria). To do what?

Mr. ELTING (McDonough). To engage in any lawful business.

Mr. TODD (Peoria). In addition to that, what do you hope to accomplish?

Mr. ELTING (McDonough). The right of the individual to engage in the banking business, if he sees fit.

Mr. TODD (Peoria). You are, then, trying to defeat the present law which prohibits an individual from engaging in the banking business?

Mr. ELTING (McDonough). My point is, this will give the legislature the same opportunity to investigate the individual as it would the corporation.

Mr. TODD (Peoria). Don't you think the legislature has that authority now?

Mr. ELTING (McDonough). They do not exercise it.

Mr. TODD (Peoria). But do you not think the legislature has that authority now?

Mr. ELTING (McDonough). I do not think so.

Mr. TODD (Peoria). But then does it have authority to prevent the individual from going into the banking business?

Mr. ELTING (McDonough). I do not think it has.

Mr. TODD (Peoria). You think the law is unconstitutional as now passed?

Mr. ELTING (McDonough). That would be my idea about it. I want to say now the fight is against the tendency of doing just this thing, and I want to call your attention to the fact that a few years ago the legislature passed a law that put all the small coal mines out of business in this country. They made the examination so exact that the men who had mined coal for twenty years were unable to mine coal in their coal mines, and as the result it put the little fellow out of business, and over in my county where the like had never been known before, farmers and the people in the country came to town and bought coal as the result of that, and as the result of that the coal of this country was put off the cars controlled by the large mines, and we have been paying for the coal, and poor people in Chicago and other large cities have perished because they could not get coal, and it is against this principle I am fighting, and I have this to say of the private bankers. All you men know in your community your country was developed and brought to its present state of efficiency and wealth by the private bankers. He did not have any iron-clad rules; if he knew his man and he knew his man was honest, he would let him have money for his enterprise. That is the way the country has been developed. Now, what is the situation? We have a law put through largely because of a few failures in Chicago, a thing promoted by the large interests in this country to get the little fellow out of business. It is that principle I wanted to know whether this Convention would recognize or not.

Mr. TODD (Peoria). I want to say on behalf of the Committee on Corporations—I happen to be on that unfortunate committee—thought it best not to insert any part of this in the Constitution, for this reason: We believe that the legislature had authority to provide for investigating the conditions of our banks in the State of Illinois and they had exercised that authority in the past, and it would not need constitutional provision to enable them to do so in the future. The present section of the Constitution provides for quarterly reports, and in the discussion of the committee we wondered if perhaps that provision would not prevent the state department calling for reports more frequently. We therefore omitted it on the theory that the legislature could provide by law for such investigations as the proper departments of State could make, and there has been no attempt in the history of the last twenty-five years nor has there been shown on the part of the legislature and the department a desire to hurt honest banking in the State of Illinois, and I hope no part of this will be included in the article on corporations, but we will vote it down and let it stay where it belongs, in the hands of the legislature of this state.

Mr. REVELL (Cook). May I ask the gentleman a question? You are in favor of throwing every possible safeguard around the savings of the people?

Mr. ELTING (McDonough). Yes, that is my object.

Mr. REVELL (Cook). Do you realize in the law today regarding incorporated banks an assessment can be levied against the stockholders for full value of their stock and probably a greater amount?

Mr. ELTING (McDonough). Yes.

Mr. REVELL (Cook). That is a safeguard, is it not?

Mr. ELTING (McDonough). Yes.

Mr. REVELL (Cook). How would you place a similar safeguard around the deposits in a private bank, to make the depositors in private banks have at least an equal protection, looking toward getting back a return on their deposits.

Mr. ELTING (McDonough). All his private property is liable.

Mr. REVELL (Cook). I differ with the statement made by one of the delegates, I think he made it inadvertently. That was, "that more money had been lost in incorporated banks than in private institutions". I think the statement is true only because there have been more deposits in such incorporated banks, than in private banks. But if you will take the amount of money which private institutions have invested in their business including deposits, and compare that with the amount of capital and surplus and deposits invested in corporate institutions, you will find that there will be no need whatever for comparison. The percentage of loss in private banks is very large, almost total loss. The percentage in other banks very small. The difference to a large extent lies in this, that under the law, so far as incorporated institutions are concerned, they have to make their reports regularly. These are analyzed carefully and the poorly conducted banks are checked up. The careless banker is caught up with before all is lost. If I had the figures here you would be surprised to learn how little has been lost in the incorporated institutions, when the final adjustment with depositors is made. When it comes to private banks, in nearly all cases where there is failure, they have been found to be almost completely wiped out. The loss even in the Lorimer bank failure, which has been referred to, one of the worst of them, you will find that when they get through, that loss upon the individual deposit is not going to be great, nothing like a complete loss. I had occasion not long ago to go into this matter in detail, because I was seriously interested in insurance for deposits. I found that so little was the loss in incorporated institutions that the amount of insurance required by each bank if insurance would be required would be infinitesimal—a part of a mill on the deposits. Another case in point was the Chicago National Bank failure—better known perhaps as the failure of John R. Walsh. The depositors did not lose a penny. Can you point to any similar situation in the failure of any private banker in this state? I heartily join the sentiments expressed by the delegate from Cook, Mr.

Traeger. If we possibly can in this Constitution we should place every safeguard around deposits. We talk here about the bolshevistic movement, about people looking with a certain disregard to, and disrespect for government; there is nothing that makes for a larger share of discontent in any government than to have a sign put out by a bank or any institution designated or permitted to receive the people's savings, and which sometimes through friendship, politics or other influence receive the deposits, and in a short or long time after, find a sign on the door that the bank has gone into the hands of a receiver. I tell you my friends who favor this proposal to allow the individual to continue in the banking business, if you do so believe and succeed be sure that you throw every safeguard around it. Unless you do that you do not come here with clean hands, and I say it respectfully. You come here with some ulterior purpose. There is no work of this convention that will do a greater share of good to the entire people than to absolutely safeguard the money of the people, to the last cent that goes into a banking institution. To say that the private responsibility of a private banker will safeguard savings, is not enough. Gentlemen, we must go as far as we can in the right direction, rather than go backward. If there is any greater safeguard to be thrown around even the incorporated institutions we should do that. Illinois shall not rise to the full measure of its glory and traditions unless we see to it that every banking institution shall be absolutely safe and that the investments made by the banks shall be investigated so often that the halt come quickly, "may come quickly in case of careless banking". It is my impression that the report of the committee had all this in view. I therefore will stand by the report of the committee.

Mr. IRELAND (Woodford). The amendment in principle possibly is right, but in practice it is absolutely wrong. A man should have the right to engage in any lawful business, but when he puts himself out of business, as the private banker did, he ought to be regulated. The only difference between private banking and the state bank, so far as banking is concerned practically is the expense of the examination, and I am against this amendment absolutely. There is no use going back and fighting this proposition all over; it is legislative in the first place. It has been handled by the legislature and it has been voted upon by the people.

Mr. WALL (Pulaski). I think the mistake we are probably laboring under, at least a great many of us, is the one question put by the gentleman from Cook today, whether or not a private citizen ought to be allowed under the law to go in the banking business in Illinois. Now, I will admit every man ought to follow and prosecute any lawful business that is not inconsistent with the welfare of the public and that is not against public policy and all human experience. But, sir, I am not ready to admit that considering the ramifications and the importance of the banking business as affecting the individual and the public that any private citizen has the right to establish a private bank, although that bank may afterwards be subject to inspection by the State. I think the suggestion that we ought to, above all things, in this Constitution forbid that very thing being done. I think the bank ought to be the creature of the State. It ought to be started by the State, the State ought to be its father, it ought to be incorporated by the State, regulated by the State from the day it is incorporated and as long as it is in existence by the State. In that lies the security of the depositors. It is true that the property of the private banker is subject to levy, sale and execution for any defalcation of the bank, but how often have we seen in the past, probably nearly every community in the State, this thing: I know of three institutions in my own district where the private banker went into the banking business with capital that nobody knew anything about, with no property other than the capital he put into the bank. The result was, one ran six months, one six years and one eight years, but they all failed. There is no question about the point made by the gentleman, Mr. Revell from Cook, that friendship, politics, environment and association will induce everybody from the wealthy man to the widow and orphan to put their money into these institutions. I do not care how they are regu-

lated, they are not as responsible to the State and the depositors as an incorporated bank. Suppose the banker's property is liable. He may not have any except his capital, and this section does not regulate that. Gentlemen, let us not remove this security, but let us take the position here that the banking business, important as it is to all of us and our children and to the future generations, shall be steadfastly supported by the State and that it shall be secured by the State. Let us not take a step backward, but go forward and prevent any one man or set of men through a partnership going into the banking business.

Mr. DUNLAP (Champaign). I wish to withdraw the amendment suggested by myself. It appears to me that this question, putting a section of this character into the Constitution really has in it one essential feature, and that is the one suggested by the gentleman from McDonough, relating to persons and individuals entering into the banking business, that we should adopt the section with that section stricken out; that would be limiting the powers of the legislature with regard to controlling the affairs of those banks, and this requires a quarterly report and statement, and I think the questions just as well come upon the main issue, and I ask leave to withdraw the amendment I offered.

CHAIRMAN FYKE. Without objection, the amendment may be withdrawn.

Mr. GEE (Lawrence). We are considering a proposition now to inject into our Constitution a question which has been paramount in the banking world, and particularly depositors for years. After a strenuous contest from a powerful lobby, the legislature got back the correct theory and that is to eliminate the private banking interests. The sun has about set on the possibility of one man or a number of men congregating themselves together and using the word "bank" and flaunting that sign to the world and having put in their care individual deposits of the toilers and men who have cash to be cared for.

I take issue with the proposition that the defaults in the private banking business were altogether in Chicago. I have had personal experience in wiping out two private banking propositions in two of the smallest counties of our state. I found in one instance where they were supposed to have a capital of twenty-five thousand dollars, and when we got into a court of chancery we found they had about twenty-five hundred dollars. Men have the right to believe that the word bank means something, means at least solvency when they put their money in it; when the hour of travail comes then they find there was no solvency, there were no notes nor assets, and some poor farmers who had taken a share or two of stock to get to be a stockholder in the bank, which has a great deal of advertising value to a man when he is a stockholder in the bank, found that they had to borrow money to meet the obligations of that private bank. It is unfair to the stockholders in the private bank, as well as to the depositors. Now, under the banking laws the corporation is organized with a well known capital stock. The stock must be paid in cash. The comptroller of the State ought to see to it that there is something to meet the obligation, and then the liability of the stockholder is fixed. It is fair to every man who is a stockholder. It is unfair to organize a private bank with one man who may be solvent and a half dozen who may not be, and when the hour of crash comes, then the man who has property must stand the brunt of the failure. Let us not recognize this, but vote this proposition down, so a man will know that the banking business is honest and the depositors will have some degree of protection.

Mr. CUTTING (Cook). I move debate be closed and a vote taken.
(Motion prevailed.)

CHAIRMAN FYKE. The question is on the motion of the gentleman from McDonough to add section seven of the minority report to the majority report.

(Motion lost.)

Mr. KERRICK (McLean). I move that section seven of the present Constitution be added to the majority report.

Mr. GREEN (Champaign). That motion was made and then withdrawn. Point of order.

Mr. KERRICK (McLean). That motion was to strike out certain words; that was withdrawn, unfortunately, and because of that it was necessary to include the entire section. I see no good reason why the section should not be preserved. If the amendment had been allowed to remain, I have no doubt that the amendment would have been defeated and the section then would have been allowed. It seems to me it is not a wise method of getting rid of a useful section which has been there since 1870 and which has answered a good purpose and it ought to be retained. I insist upon the motion.

(Motion lost.)

Mr. ELTING (McDonough). I now move you that section nine of the Constitution of 1870, which is section nine of the minority report, be made a section of this article on corporations.

(Motion lost.)

Mr. ELTING (McDonough). I move you that section eleven of the Constitution of 1870, which is section eleven of the minority report, be made a section of this article on corporations.

Mr. JARMAN (Schuyler). I would like to inquire of the members of this committee why the omission of this section eleven.

CHAIRMAN FYKE. I am glad to state the position of the committee on the omission of all the sections, which was that in the opinion of the members of the committee it was legislative matter and had no place in the Constitution.

Mr. JARMAN (Schuyler). Is that the only reason?

CHAIRMAN FYKE. That is the only reason.

Mr. JARMAN (Schuyler). It seems to me unfortunate for this Convention to leave out this section eleven, also this section nine, which has been there since 1870. It is for the protection of the people, and for the fair regulation of railroads doing business in this State. Simply because it is legislative is not to my mind sufficient to take it from the Constitution when it has been there so long and the results of it have seemed to be good in this State.

Mr. SUTHERLAND (Cook). I feel as does the gentleman from Schuyler (Jarman), that we are making a mistake in leaving out of the Constitution a matter which has been there for many years, which is well understood, which the people are accustomed to and would require considerable explanation in presenting a new Constitution because of its omission unless there was some specific reason for leaving those sections out.

Mr. KERRICK (McLean). I am glad to hear one voice raised against this wholesale omission of provisions in the Constitution which have become well understood and adjudicated, many of them, and which have been entirely satisfactory. I am informed that this Committee on Corporations were so industrious in this matter of expunging legislative matter, that the article which now contains fifteen sections they proposed at one time to reduce to four. It seems to me that is simply overdoing things. The question might well be raised whether or not these gentlemen might have been mistaken about these being purely legislative. Just by way of illustration: Take section seven, disposed of rather summarily. It might be very necessary. It is not impossible that the legislature may repeal the statute which provides that all banking be done by incorporated associations, and then we have nothing in our Constitution to provide against banking by individuals, nothing providing they should make a report. Of course, I am not trying to revive that section so summarily put out of existence, but I am opposed to this wholesale elimination as was attempted in the first instance of cutting eleven out of fourteen sections of the article on corporations. I see no reason at all why this sort of thing should proceed any further. I am decidedly in favor of retaining the section now under consideration.

Mr. TODD (Peoria). This question of eliminating the railroad provision was discussed in the committee, and it gave me considerable con-

cern. I want to ask the gentleman what protection is afforded any of the citizens by that provision.

Mr. KERRICK (McLean). The section now under consideration?

Mr. TODD (Peoria). Yes.

Mr. KERRICK (McLean). It reads as follows: "No railroad corporation shall consolidate its stock, property or franchises with any other railroad corporation owning a parallel or competing line; and in no case shall any consolidation take place except on public notice given of at least sixty days to all stockholders, in such manner as may be provided by law. The majority of the directors of any railroad corporation, nor incorporated or hereafter to be incorporated by the laws of this State shall be citizens and residents of this state". I remember a case a great many years ago in which the attempt was made to consolidate the Lake Erie and Western Railroad with another railroad in which there was very considerable litigation, in which I participated, and was defeated because the attempt was defeated on account of stockholders in one corporation, at least, to freeze out the stockholders and get an unlawful—

Mr. TODD (Peoria). Was Lake Erie an Illinois corporation?

Mr. KERRICK (McLean). I do not remember now precisely whether it was or not.

Mr. TODD (Peoria). Does this section apply to any railroad corporation that is an Illinois corporation?

Mr. KERRICK (McLean). I had not given that any thought; I was just simply becoming alarmed by the manner in which constitutional matters, which were evidently well considered in 1870 by a body fully as able as this—

Mr. TODD (Peoria). Will you answer one or two questions directly?

Mr. KERRICK (McLean). I have not given this much thought. But it seems to me that the men who wrote the basic law of this state could not have been mistaken about eleven sections out of fifteen, and no harm can be done by allowing that to remain in the constitution. I will ask you a question, what harm can be done?

Mr. TODD (Peoria). Perhaps none. I am asking for information and light on the subject. I am not speaking for the proposition at all. My impression is this, there are probably two or three Illinois corporations, that the other railroads operating in the State of Illinois are incorporated in other states, that the stock of those corporations are sold to investors in the State of Illinois, and one man investing his money in the stock of those corporations is not protected by this Constitution to deal with a corporation organized in another state. It seems to me we do not protect a single investor, but simply drive those companies out of the state, and they come back and sell the stock to our people here, stocks of corporations organized in other states. I see no reason for keeping it in, and I cannot see why it protects the Illinois investor.

Mr. KERRICK (McLean). Was there any reason urged other than the reason it was legislative?

Mr. TODD (Peoria). I heard no reasons urged.

Mr. HULL (Cook). I do not know whether it was in the minds of the committee that at the time the old constitution was formed, railroad development was at its height, you might say, many companies were being incorporated. The desire was that there should be preserved the competition between parallel lines and thereby prevent a monopoly on transportation. Now, the situation is entirely changed with reference to railroad transportation. They are now under federal jurisdiction with the federal government now regulated rates for railway transportation, and conditions are so completely changed that the use of a provision of this kind in the Constitution no longer exists. That was probably in the minds of the committee.

Mr. TODD (Peoria). I realize this, that rates were not fixed by the federal government, but by the legislature of this state, and for that reason I had doubts about taking out all these sections. I still think that by taking them out we can regulate interstate rates.

Mr. HULL (Cook). I was under the impression there had been a decision in connection with one of the Minnesota Railroads that the federal government regulated the rates instead of the state.

Mr. TODD (Peoria). If I am correctly informed, the legislature of this State passed a two cent law which the Interstate Commerce Commission tried to change for the benefit of St. Louis and the surrounding country, but our United States Supreme Court held that that law was valid and applied to intrastate rates, and the Interstate Commerce Commission order did not apply to those rates.

Mr. DAWES (Cook). I fear the reputation of the members of the Corporation Committee may suffer by reason of their modesty. No one feels authorized to speak for the committee, and when the inquiries are directed as to considerations that led to the conclusions of the committee, no one feels quite qualified to answer and let this committee be in the minds of the Committee of the Whole convicted of no consideration in matters of this kind, I wish to say in reply to the inquiry of the gentleman from McLean (Kerrick) that in considering these matters the committee did discuss the situation now existing in respect to the control of railroads in the United States. That situation is entirely different from the situation which existed in 1870, which was in the very early period of development in railroads, at a time in which the locality of the control and the nature of the control was very much in doubt and when people were beginning to realize the extent of the effect of this management of these matters upon the general public. It was therefore not only in this State, but in all States the custom, and no doubt the wise thing in constitutions and in law of the various states to throw about the operation of the railroads all the restrictions deemed necessary for the protection of the State.

Mr. Chairman, the federal government has practically taken over the control of the railroads. The sentiments of the people with respect to the consolidation of railroads at that time, that is in 1870, is exactly what the sentiment is today, but the condition of the railroads, as a result of the war and of the control that has been exercised during the war, has naturally raised the question as to whether the policy of the people in dealing with the railroads may change. It may be desirable to change. I do not think the committee went so far as to express any opinion upon that matter, but if the universal sentiment of the country is that at some time in the future it is better that these railroads be consolidated, and thereby be brought under more direct control by the State, what advantage would there be in creating or rather in preserving an obstacle to the free exercise of the will of the people as expressed through federal legislation? Not only that, but because we believe that section eleven added nothing to the power of the General Assembly to direct these matters, we believed that lapse of time had made it unnecessary to continue in a new Constitution any section that was put there by reason of conditions that existed fifty years ago, and that no longer exist. It was not because the matter had received no consideration.

Mr. KERRICK (McLean). Since I have had time for reflection, I remember something which occurred in which this section eleven figured very conspicuously, considerably less than fifty years ago. It was when I had the privilege of being a member of the Senate of this State that the bill was instituted provided in case where one railroad company manufactured or produced or had for sale anything that was purchased by another company, that it was privileged to buy stock of the other company. This section originally was intended to prevent the consolidation of all railroad systems in the State of Illinois into one combination. That was the object of it. That bill passed this legislature. It passed by exactly twenty-six votes in the Senate, and after its passage the gentleman who sat next to me asked me for heaven's sake to get the Governor to veto that measure. It was a corrupt measure, but it is said he had to vote for it, he said, for it passed by a considerable majority in the house, where there was little or no discussion on the subject. The bill was very promptly vetoed by Governor Fifer. The railroad that was under consideration or behind the measure was a little spur of

a track to a coal mine in Vermilion county owned by a company at the head of which was a man that I have no doubt many members of this Convention many years ago were well acquainted with. It was vetoed and among other things the Governor said it was not necessary in order to drive a tack to use a sledge hammer. This little spur of track was behind the scheme by which all railroads could be combined into one, and to accomplish it nearly thirty years ago this thing transpired. I know that the Federal government to a certain extent has two provisions but there is still great need for this section in the Constitution of the State of Illinois as there is still greater need for the one following it. Under the next section Illinois was enabled to do for the first time something it had not been supposed could be done, that was to fix reasonable rates and charges, and that was the law of this State, and this was the first State that ever undertook to establish that principle, and every other state in the Union has followed suit and the Federal government, the people of the United States, owe the Interstate Commerce Act and what has been accomplished under that to the government and legislature of this State in carrying out the provisions of these two sections.

Mr. HAMILL (Cook). Mr. Chairman, and gentlemen of the committee. I proposed that this be stricken out of the Constitution, and I proposed it because in my judgment it was a legislative matter, and the reason I thought it legislative matter was this: It deals with an economic relation. Now, views on political economy change from time to time as conditions change, and as the wisdom of men becomes greater or possibly less. The system deals with these different things. First, it forbids consolidation of parallel or competing lines. In 1870 and for some years thereafter consolidation of parallel and competing lines was generally regarded as unwise economically. It was thought it led to monopoly. It was thought it did away with competition. It was thought that competition was the best way of regulating railroad rates. I do not believe that many of us today believe that competition is very desirable or necessary in fixing railroad rates. Long since in the opinion of those best capable of judging, competition has been regarded as wholly inefficient in determining rates for railroads. Competing and parallel lines are now regarded as economic waste, and consolidation of competing lines is held by many to be wise and where the rates are regulated by law, competition is unnecessary. The consolidation of competing parallel lines reduces the expense of operation and maintenance and the competition is unnecessary for the protection of the public. Now, those conclusions may be sound or they may be unsound. I personally think they are sound, but my argument is not upon that. The fact is, that Federal government and State alike have long since abandoned the competitive theory for the fixing of railroad rates, and therefore the prohibition of consolidation of competing and parallel lines is no longer essential for the protection of the public. At least it is not required by Constitution. The legislature I believe may be safely left to determine from time to time as economic conditions may permit whether consolidation should be promoted or should not. The second point dealt with by the section is the notice required to stockholders in the event of consolidation. That I take it is for the protection of the stockholder. Now, it seems to me, gentlemen of the committee, in drawing our conclusions we need not deal with the internal affairs of corporations. Any relation between the corporate entity and its various stockholders, the relations between one stockholder and another, those are ordinarily matters of contract right. When a man becomes a stockholder he enters into a contract between himself and the other stockholders. That may be left to the wisdom of the stockholder and if not to his wisdom, then to the good judgment of the General Assembly. The regulation of the rights between individuals where those rights do not necessarily affect the public is no concern of a Constitution. The third point dealt with by the section under discussion is that a majority of the directors of a railroad shall be residents of this State, or citizens and residents of this State. That applies, of course, to railroad corporations organized under the laws of this State. It is an attempt to limit the General Assembly in its power of determining upon what conditions corporations shall be organized. I personally think it is wise that a majority of the

directors of an Illinois corporation should be residents of Illinois, and I have no doubt that the General Assembly will so regard it, but it is quite unnecessary to say to the General Assembly, you do not know enough to pass laws determining how the Board of directors of your Illinois corporation shall be constituted. We hope that the Constitution we draw will last a great many years. Conditions may change where it will seem unnecessary to require a majority of the directors to be citizens of Illinois. So it seems to me the three things dealt with by the section may very safely and properly be omitted in the Constitution.

Mr. WHITMAN (Boone). I move that debate be now closed and vote taken.

Mr. ETLING (McDonough). I insist that I have the right to close the debate.

Mr. WHITMAN (Boone). I allow he is not the only member, but the whole thing, and I am quite willing that this motion be suspended until he gets through.

Mr. ETLING (McDonough). Think what the delegate from Cook has just said! What is the use of us wasting our time and making a Constitution at all? Just simply put in three or four lines and say that these things shall be turned over to the legislature, and let us go home. Now, as to the member of the committee from Cook, it is true that the question of leaving this section out was simply on the ground it was legislative matter, and that the legislature has the same thing on the statute books. I have heard that from several speakers. That is one of the reasons, I thought it should remain in the Constitution, because the great probabilities are that if this had not been a constitutional matter, it would never have appeared in the statute books of Illinois. As to the question of Federal Constitution, this Convention is limited only by the Federal Constitution and any provision we put into the Constitution, if the national government has a law on the same subject, the national law will supersede our law, because we are limited by the Constitution of the United States in that regard, but until the national government does take over the railroads and until that law contravenes this law, I think it is sufficient to keep it in because it is a limitation upon the legislature, and I might say a limitation upon the public utilities commission. Now, you all know the legislature, if we have nothing in the Constitution, the absolute control of the railroads and the utilities will be in the hands of the legislature or the Public Utilities Commission. I do not know whether I dare mention that limitation we put into the Constitution would affect the Public Utilities Commission, but I am inclined to think it would, because I think this Constitutional Convention is and ought to be the supreme power of this State. I think it is dangerous to turn everything over to the legislature regarding public utilities and the public utilities commission without indicating in the Constitution the limitation that we know should exist.

Legislatures are changing, and that is the point I made against turning the matter over to the legislature. I feel with the gentleman who takes that position that it would be most unfortunate. I have got no complaint to make against their stand. I think everyone has the right to his own belief in those matters and if they believe it that is the end of it. If we want any degree of permanency in our institutions, these limitations we know are just, why not retain them? The legislature changes every two years. We have one thing one year and one thing another. Does that give permanency to our corporations or banking institutions? I think it should be retained because it is a limitation on the legislature, and the reasons outlined by the delegate from Cook as to competing lines and the shareholders and the requirements of the citizens of the State, well might the legislature take care of those things, but why not we do it if we think there is anything in it? If not, let us do otherwise. I thought these matters were of sufficient importance to bring them before the Committee of the Whole.

Mr. WHITMAN (Boone). I now renew my motion to close debate.

Mr. LINDLY (Bond). I would like just a sentence or two. I do not think it is right to cut off this debate on an important question like this and

railroad these things through. I hope the gentleman will withdraw his motion for a moment.

Mr. WHITMAN (Boone). If the gentleman cares to have it withdrawn, I am willing to withdraw it for your remarks, but after that I insist that this matter come to a vote.

Mr. LINDLY (Bond). I think that this Convention has reached the point where they had better stop and consider. You will have some explanation to make, my friends, when you go out in this State having knocked all these sections regarding railroads that were in the Constitution of 1870, and it might be that some explanations that we make on the floor appeal to us, but when you go to the people and have to explain to everybody that you knocked out all the Constitution of 1870 with reference to limitations on railroads you will have something to do, and I think it is time to stop and leave some of these in there. (Applause.)

CHAIRMAN FYKE. The question is on the motion that debate be closed.

(Motion prevailed.)

CHAIRMAN FYKE. The question now is on the motion of the gentleman from McDonough to add section eleven of the minority report to the majority report.

(Motion lost 23 to 34.)

Mr. ELTING (McDonough). I now move you that section twelve of the Constitution of 1870 which is just the same as section twelve of the minority report be made a section of the article on corporations.

This is an important section in the Constitution and I think should be made a part of the new Constitution. There is nothing objectionable in this section as I can see, and it was eliminated in the committee for the same reason that the others were, it was legislative matter. If we put it in the Constitution, it will be constitutional matter. It is very important that the railroads constructed in this State be regarded as public highways and that they be free to all persons for a transportation of their persons or property. Those are basic principles and it is up to the legislature to arrange the details. I think we will make a mistake leaving this section out of the Constitution on account of its importance and the fact it has been in the Constitution for fifty years, and not a dissenting voice from a railroad was heard in the committee, and I have not heard from any one who says that this should not be in the Constitution, and the same statement made regarding the other sections, that it be left out because it is simply legislative matter, I do not think should control. I think it is important that we consider this matter.

Mr. RINAKER (Macoupin). I heartily agree with the gentleman as to what has been said as to this section. It may be legislative, but there are a great many legislative provisions pending now for incorporation in the present draft of the Constitution, and it is not certain that none of them will go in. This particular provision has been the occasion of the State of Illinois becoming the pioneer in the matter of railroad regulation and under it the present regulating system, both State and Federal, have been patterned after the legislation of this State. It would in my opinion be very unfortunate, for without regard to the question whether it might be accomplished by regulation, to cut out this restriction upon the action of the legislature. This is a government of the people, of course, and their chance of direct expression is only in the Constitution, and in my opinion should only be there. If then we are to cut out from the Constitution every limitation upon legislative action, we are making a mistake and particularly as to this section, which has been a great value in this State. The principle might possibly be better expressed, but the language here used has been construed by the courts, it has been followed, it has done no harm; it has done much good and it would be unwise to take out of the Constitution the principle embodied in this section. I am in favor of the motion and hope the present section of the Constitution will be retained in the new Constitution.

Mr. DAWES (Cook). As a member of the committee, I would like to call the attention of the Committee of the Whole to section twelve of the present Constitution, which provides that the General Assembly from time to time shall pass laws establishing reasonable rates of charges for the transportation of passengers and freight on the different railroads in this State. Section fifteen provides, "The General Assembly shall pass laws to correct abuses and prevent unjust discrimination and extortion in the rates of freight and passenger tariffs on the different railroads in this State, and force such laws, by adequate penalties to the extent, if necessary, of forfeiture of their property and franchises." Now, in the discussion of this matter before the committee upon corporations, in the interests of framing a brief, concise instrument that would embody all the essentials that ought to be embodied in the Constitution, the committee decided to recommend for adoption by the Committee of the Whole a brief paragraph to the effect that rate charges and services should not be discriminatory, but should be reasonable and just. When that proposition was submitted to this body yesterday, owing to some misunderstanding about the word "discriminatory" and whether the expression "not discriminatory" could be exercised in favor of private corporations as against public corporations and as to whether the expression "just both to the company and to the public" would mean something different from the word "just" alone, or from some other cause, I know not what, that proposal met with no support from this Committee of the Whole. I merely rise to remark that since that proposal was voted down, it is not to be inferred that the majority members of the Corporation Committee are opposed now to the inclusion of the paragraph that would constitutionally prescribe the regulation of rates of railroads, although I believe it to be the opinion of the members of the committee that the legislature would have that power, but just speaking for myself alone, I say I quite agree in the sentiment expressed by the gentleman from Macoupin (Rinaker) that this matter is one to be included particularly among the constitutional provisions.

Mr. HAMILL (Cook). I do not want to take up any unnecessary time of the committee, but I offered the resolution to strike this out, and my reasons were substantially the reasons stated when we adopted section twelve. The first clause of this section twelve merely declared a common law rule. It adds nothing to our body of law and is wholly unnecessary, as I view it. The second section, directing the General Assembly to pass law fixing rates, confers no power and imposes no obligation on the General Assembly which would not exist without it. Pursuant to my general theory that we ought not to put into the Constitution matters which do not limit the General Assembly, the General Assembly having all power not denied it, I think it is wholly unnecessary and unwise.

Mr. KERRICK (McLean). When this section was incorporated in the Constitution of 1870, the right of the State, or of the United States to meddle with the rates that might be charged by railroads was denied by every railroad in the land. It was denied to the extent that the State of Illinois when the legislature enacted a three cent rate, that the railroads refused to comply with it, and the Granger movement was started, and the members of that organization would get upon trains and ride after tendering three cents a mile which was refused; that led to the Granger litigation which made this matter historical in the United States, and established what had been regarded as not established before, which was a matter of litigation on the part of railroads in the land, the right of the State to regulate the reasonable rate on freight and passengers. It was a great event in the history of Illinois, and in the United States, and it was occasioned by the language we are proposing to cut out of this Constitution.

Mr. HAMILL (Cook). Was the decision that the legislature had power to fix rates based upon this section, or was it based upon the inherent power of the legislature independent of any such provision?

Mr. KERRICK (McLean). Based on the power of the people of the State of Illinois to declare as part of the fundamental law that it had the right to control the charters of common carriers in the State of Illinois, and if there is anything fundamental at all, that is fundamental.

Mr. TODD (Peoria). I am speaking often, this morning, but it is because I am a member of the committee, and these matters have been before me. When section five of the majority report was inserted, I did not agree with the words used by the committee, but with some slight changes that section would have satisfied me with regard to the control of the State over the power to make rates in corporations. That has been stricken out and as a member of the Committee of the Whole and of the Corporation Committee, I want to urge that this section now offered be retained in the Constitution. I think with the other section out this one belongs in and we should add a part or all of section fifteen afterwards, and I rise to support the motion at this time to incorporate this into the Constitution. (Applause.)

CHAIRMAN FYKE. The question is on the motion of the delegate from McDonough (Elting to add section twelve to the majority report of the committee.

(Motion prevailed.)

Mr. ELTING (McDonough). I now offer section fourteen of the Constitution of 1870, which is the same as section fourteen in the minority report, and move it be made a section of the Constitution.

CHAIRMAN FYKE. As the Chair stated this morning, the position of the committee was that it had been referred to the Committee on Bill of Rights and therefore it was not considered at all by the Committee on Corporations.

Mr. SUTHERLAND (Cook). I will move that consideration of this matter be postponed until the report of the Committee on Bill of Rights comes before the Committee of the Whole.

Mr. GREEN (Champaign). The Committee of the Whole cannot postpone indefinitely.

Mr. HAMILL (Cook). I move you that the Committee of the Whole do recommend to the Convention that the consideration in Committee of the Whole of this section be deferred until the consideration of the report of the Committee on Bill of Rights.

(Motion prevailed.)

Mr. STAHL (Stephenson). I offer this as a substitute for section fifteen of the Constitution of 1870 as an amendment to the majority report: "The General Assembly shall pass laws to correct abuses, prevent unjust discrimination and extortion in rates and tariffs charged for services in this State by the different railroads and public service corporations and enforce such laws by adequate penalties to the extent, if necessary, for that purpose of forfeiture of their property and franchises."

That is exactly the same as section fifteen of the Constitution of 1870, except it includes public service corporations. Under this section fifteen every shipper in the State of Illinois has had constitutional rights since 1870, and if this section is abolished, I have been approached by many shippers on this proposition and they claim they will have no constitutional rights whatever in regard to rates, and it seems to me that this ought to be a part of the Constitution.

Mr. HAMILL (Cook). The section directs the General Assembly to pass certain kinds of laws. If adopted the General Assembly either will or will not obey. If it does obey it will necessarily and naturally pass such laws not because the section is here, but because it considers them wise. If it determines what are abuses and what are unjust discriminations, that will be a determination by the General Assembly which the court may or may not sustain. It seems to me therefore that the section means absolutely nothing.

Mr. DUNLAP (Champaign). I agree with Delegate Stahl (Stephenson) in regard to the incorporation of this article. I know from my own experience and the experience of others that such laws are necessary to protect shippers. It may not be necessary to put this into the Constitution to give the General Assembly the authority to pass such laws, but it does call to their attention this matter in such a manner there is likely to be a compliance with it. If there was no constitutional provision they might see fit to avoid the passage of such a law. I think it is highly desirable that this section go into the present Constitution. You will find there is a demand by

every person interested in shipment of goods and commodities in this State in having this section go into the Constitution.

Mr. MILLER (Cook). May I make this suggestion. That the section now proposed being different from section fifteen of the present Constitution, including the rates not only of railroads, but of other public utilities, including those serving only individual municipalities. Now, the question as to who shall have the right to regulate rates of public utilities corporations serving only individual municipalities, I think has not been considered by the committee, and there is a contrariety of opinion among the members of this Convention upon that subject. Therefore it seems to me that that particular matter should be reserved for a committee report. Personally, I can see no great objection, although I can see no particular thing to be gained by inserting in the Constitution, or passing at the present time section fifteen of the present Constitution, but it does seem to me that so far as the regulation of rate public utility corporations serving individual municipalities, which is included in the section as now proposed, that that ought to be preserved, and I therefore move that this committee recommend to the Convention that consideration of this whole matter be reserved until the coming in of the report of the Committee on Municipalities.

Mr. SUTHERLAND (Cook). With due respect to the distinguished delegate from Cook (Miller) I do not think it is wise that his motion should prevail. This is more than a question of regulation of municipalities. It is a regulation of all sorts of utilities, both State and local. In the first place there is difficulty in deferring any matter referring solely to local regulations, to two committees, because there is no certainty that the two committees will bring out one article applying to all cities in the State, and so it will ultimately have to go in the Corporation Article, or appear twice in the Constitution, which would be ridiculous. It seems to me we can carry this question of what is legislative and what is constitutional to an extreme. It is true with reference to railroad legislation alone. There are now on the statute books laws regulating rates, and if there were no such laws this section could not compel the General Assembly to enact them, but it does by its presence in the Constitution preclude a repeal of those laws by the General Assembly, and therefore, has something more than a mere sentimental value. It seems to me we can put this section temporarily into the Corporation Article, and let it have the consideration of the other two committees; the Committee on Phraseology and Style may make such changes as may be necessary, but I want to point out that this section must be brought up to date to apply to utilities other than to railroads.

Mr. STAHL (Stephenson). Just one word. I want "common carriers" after the word "railroad."

Mr. MILLER (Cook). There is no doubt, is there, that in this proposed section that is now offered the General Assembly would be without power to delegate the regulating of utility rates in municipalities to that municipality?

Mr. SUTHERLAND (Cook). I will have to plead guilty, not being a lawyer, to attempt to answer that question from a legal standpoint, but from my limited knowledge I see no reason why there should not be some delegation of some regulatory power.

Mr. MILLER (Cook). My own opinion, made up hastily of course, that this would prevent such delegation, and that it may be decided to place through the Constitution that power in local municipalities, and if I am permitted to do so, I will withdraw the motion I made to defer consideration and will move as a substitute for this motion that section fifteen of the present Constitution be included as a section in this article.

Mr. TODD (Peoria). I have been careful in committee work to avoid going over just what Mr. Miller has suggested. I do not want to recognize in the Constitution the exclusive power of the legislature to fix rates on certain utilities. I would vote in favor of this motion if I thought in adopting this section it did so. I would like to hear from some other attorneys who are familiar with those things on that question, because you do not want to tie up with the legislature forever the rate fixing power of local utilities, but we do want power reserved in the legislature with the power, if it is so

desired in the local communities should do that by giving the legislature such power they could delegate to such corporate municipalities as they saw fit.

Mr. MILLER (Cook). It seems to me if we adopt this section as now proposed, this modified section fifteen of the present Constitution, we are acting hastily and without due consideration. It is certainly a matter that ought to have very careful consideration of the committee, whatever the effect of this is, and neither the gentleman from Peoria (Todd) nor myself, and probably very few of the other lawyers have given this matter careful attention. It seems to me we ought not to adopt this proposed amended section fifteen without further consideration.

Mr. GREEN (Champaign). I think the interrogatory of the delegate from Peoria (Todd) deserves a reply, and I feel qualified to answer that question, and I think the suggestion raised by the delegate from Cook would be important, but I would be derelict in my duty if I did not talk at this time. Now, at the outset let me say I am a great deal more of a home rule advocate than those who are interested entirely aside from the same branch of the question than I am. I think it would be an awful mistake in this Constitution to absolutely deny any jurisdiction over public utilities by the local municipalities. How far that should go in my judgment is a legislative question that would change with conditions. This is a legal proposition, and I offer it to you as the result of every recent necessity for investigation, upon which I know I am right. Unless you specifically in the Constitution provide that legislative power can be exercised by an agent of the General Assembly it is the fundamental law that it cannot be done. That is, the only power cities and villages have to enact legislation is because the General Assembly is given power to confer it by the Constitution. It is a fundamental rule of law without exception in every State in the Union, so far as I know, that in the absence of constitutional provisions to that effect, legislative power cannot be delegated, so there is great danger in making provision for legislative control of these matters without at the same time providing some means by which it can be delegated. That being the law, I think adopting this amendment in the form submitted, we will all keep in mind before we finish there should somewhere be the condition conferring authority on the General Assembly to delegate certain legislative functions with reference to this subject.

Mr. TODD (Peoria). Do you think in the present provision of the Constitution the legislature has power now to regulate rates for public utilities, also has the power to delegate such regulations or to leave it at least in the local communities?

Mr. GREEN (Champaign). To a certain extent, but they cannot leave it as some people think they may.

Mr. TODD (Peoria). You also think under the Constitution that the legislature does not have power to leave to the local communities the control over railroads?

Mr. GREEN (Champaign). I think that is true, because the Constitution imposes it on the General Assembly and made no provision for the General Assembly to confer it on an agent.

Mr. TODD (Peoria). I think we should strike out all this section as now offered with reference to public utilities and adopt section fifteen as it is in the present Constitution.

Mr. DUNLAP (Champaign). I want to suggest that the matter of municipal control of rates would be very well brought in by the Committee on Municipalities, and such exceptions made as seem necessary to provide for any control by the municipality on rates on public utilities. I think pending that we should adopt this section as proposed. This matter of drifting back and forth in this Constitutional Convention takes time, and we ought to settle this question now. The matter of railroad corporations is up for consideration, and while we are passing on that we ought to give the General Assembly authority to pass upon the rates of common carriers and public service corporations. Now, if in the judgment of the Committee on Municipalities some provision should be made by the legislature, or additional power

given over what is given in this section, then let them bring in such a report. I take it that those interested will see that it is not omitted from the report of that committee. Let us make this complete so far as the power of the General Assembly is concerned.

Mr. CARLSTROM (Mercer). I have listened to the discussion of this amendment with considerable interest and tried to analyze its effect. I believe, gentlemen, if this provision is adopted we will have placed in the hands of the legislature of Illinois as long as this Convention lasts, the absolute power to control rates and no provision that we can see any possibility that may be made in the article on municipal government can offset the question, because with the present situation existing in Illinois, dealing with existing facts, we cannot undo all that has been done by the Public Utilities Commission.

Mr. DUNLAP (Champaign). Is it not true that the General Assembly under that provision of the Constitution, under this provision we are talking about, has delegated authority to the Public Utilities Commission to fix rates?

Mr. CARLSTROM (Mercer). Because it is an administrative agency of the State, that is the only delegation. My judgment is if we adopt this amendment as it is now offered we will have conferred in the Constitution the unrestricted power, not only the power, but the unrestricted duty in the hands of the Public Utilities Commission alone, or such other agency as may be designated by the State, to have any say in the rates of local public utilities. I believe it is dangerous to adopt this, gentlemen, with the expression "public utilities" in it.

CHAIRMAN FYKE. The question is on the adoption of section fifteen of the present Constitution.

Mr. DUNLAP (Champaign). If the fact you are delegating authority to control these rates upon railroads would not prevent the control of rates of interurban and common carriers of other kind, I think it would be a mistake to adopt it in its present form.

Mr. RINAKER (Macoupin). I move to add to the section as offered, the following words, "and it may delegate such power in whole or in part as to local public utilities to municipalities." If the idea is to have municipalities control these rates, if this is the desire of the Convention, I do not see how you can get it in fewer words or by language that has been substantially approved by the court.

Mr. GREEN (Champaign). Under that amendment the power would remain in the General Assembly until they did delegate it.

Mr. RINAKER (Macoupin). I presume so.

Mr. GREEN (Champaign). They could refuse to delegate it.

Mr. RINAKER (Macoupin). I do not know about that.

Mr. GREEN (Champaign). It says they may or may not.

Mr. RINAKER (Macoupin). This is an expression of the will of the people, and whether you use the word may or shall, is not very vital.

Mr. GREEN (Champaign). If you said "they should delegate it" they would have to delegate all of it or part of it?

Mr. RINAKER (Macoupin). Certainly.

Mr. GREEN (Champaign). Might you not make it even more certain than it is now?

Mr. RINAKER (Macoupin). It hardly seems so to me. If the people by such an expression as this express their desire to have control delegated in whole or part, I take it that any legislature would follow that voice just as much as they would in any other manner where we are indicating directory clauses such as this.

Mr. GREEN (Champaign). Suppose that the legislature, however, did not delegate as much power to the municipalities as the municipality now felt should be delegated them directly by the Constitution?

Mr. RINAKER (Macoupin). They could get their power by a little agitation, I think.

Mr. HAMILL (Cook). I think I can see where we are getting into a snarl. If I understand the present situation, there was first offered a motion by the gentleman from Freeport to add a section including local utilities.

The delegate from Cook, Mr. Miller, moved as a substitute the adoption of the section as it appears in the Constitution. The delegate from Macoupin has offered an amendment. It is not in order. I think we will have to vote upon the substitute offered by the gentleman from Cook, first.

CHAIRMAN FYKE. The question is on the substitute offered by the gentleman from Cook, substituting section fifteen of the present Constitution in lieu of the amendment offered by the gentleman from Stephenson.

Mr. JARMAN (Schuyler). I have given this matter some consideration, and I am very much in favor of the section of the Constitution as it is without including this public utilities question. It is a very broad and complicated question and involves many questions not brought up here, but from a municipal standpoint I think it will be unfortunate to adopt this amendment with reference to public utilities.

(Motion prevailed.)

CHAIRMAN FYKE. The question now is on the adoption of section fifteen.

Mr. DUNLAP (Champaign). I move to amend section fifteen, after the word "railroad" to include "other common carriers."

Mr. HAMILL (Cook). That will apparently vest in the General Assembly exclusive power to regulate rates of taxicabs, every expressman and every local street car in the State of Illinois.

Mr. DUNLAP (Champaign). I will withdraw that motion.

CHAIRMAN FYKE. The question is on the adoption of section fifteen. (Section fifteen adopted.)

CHAIRMAN FYKE. Now, gentlemen of the committee, the entire article is before you.

Mr. TAFF (Fulton). I move the adoption of the whole article.

Mr. DOVE (Shelby). I have an amendment to the entire article I wish to offer. Amend the majority report by adding a new section to be appropriately numbered and to follow section four, as follows: "No natural person or natural persons, partnership or firm shall be permitted to engage in the banking business in this State, or be permitted to use the word bank or banker in connection with such business." There has been considerable discussion with reference to private banking in connection with section seven of the minority report under discussion this morning, and there is no intention on my part to repeat what has been said. It is true that the legislature in 1919 passed a new banking act which was submitted to the people, and was subsequently approved, and one of the clauses of that banking act provides that private banks shall incorporate at the time the act was approved and prior to January 1, 1921, so that the purpose of offering this amendment at this time is to secure from this Convention an expression of whether or not you are in favor of an individual ever hereafter engaging in the private banking business. If you are in favor of an individual being permitted at any time hereafter to engage in the banking business, then vote against this proposed amendment. If you are in favor of the right of the individual to ever engage in private banking business, then vote for this amendment. Yesterday we struck out from one of the sections offered a proviso which was in the Constitution of 1870 providing that all amendments to the banking law should be referred to the people for approval, so now it is within the power of the legislature at its next session, if you please, to repeal section fifteen and a half (15½) of the Banking Act of 1919, and might permit private individuals to again engage in the banking business, and for that reason, gentlemen, being firmly of the opinion that no individual hereafter should be permitted to engage in the banking business or be permitted to use the word bank or banker in connection with this business, I offer this amendment, and I sincerely trust it will be adopted and the end will be forever put to the private banking business.

Mr. MILLER (Cook). It seems to me the questions the last gentleman has put cannot be decided by us. It is not whether a private person should be permitted to engage in the banking business. The question is whether

or not that matter is now so well settled and so clear that the public policy in this State will not change. I am as strong as any one can be, I think, at the present time against permitting private individuals to go into the banking business, against permitting private individual investing his depositors' money into Texas oil stock being in the banking business. That is at the present time the policy of this State. It has recently become the public policy of this State to prevent private persons going into the banking business. I can see no present prospect of public policy in that regard changing, but it is only become the policy of this State within the last year or two, and it seems to me that so long as the matter is now in the statute and has now become a part of the public policy of the State, it may be safely left with the legislature. None of us can foresee what conditions may arise in the future. It would have been unfortunate, for instance, if the Constitution of fifty years ago had said, as was suggested this morning, that any private individual shall be guaranteed the right to go into the banking business, and it may turn out to be just as unfortunate if the Constitution should say no private person should ever under any circumstances go into the banking business. It seems to me both unnecessary and unwise to insert this provision.

Mr. DOVE (Shelby). It is true as the delegate has just said, that the policy of the State as now declared is no individual shall engage in the banking business, but that public policy and that statute got on the statute books by reason of twenty years agitation of the people, and it took that long to secure that enactment of that law and for its submission to the people. I am unable to see any reason why the banking business is an inherent right. The people are committed to the proposition that the banking business should be conducted under the supervision of the State and not by any individual, and for that reason I insist that if the demand ever comes this Constitution itself can be amended and can speak then the wishes of the people, but now there is no question it is the firm opinion of the majority of the people of the State that the individual should not be permitted to engage in the banking business.

CHAIRMAN FYKE. The question is on the amendment offered by the delegate from Shelby (Dove).

(Motion lost.)

CHAIRMAN FYKE. The question now is on the motion of the gentleman from Fulton (Taff) that the report as adopted section by section be adopted.

(Report adopted.)

Mr. GREEN (Champaign). I move that the committee do now rise and report progress.

(Motion prevailed.)

(President Woodward presiding).

Mr. FYKE (Marion). I report that the committee has had under consideration the report of the Committee on Corporations and has adopted the same with amendments, and recommends the adoption of the report.

(Report adopted.)

THE PRESIDENT. Under the rules, the report of the committee is adopted by the Convention and is referred to the Committee on Phraseology and Style.

Mr. FYKE (Marion). I desire to further report that the Committee of the Whole recommends to the Convention the consideration of section fourteen of the Constitution of 1870 be given consideration by the Committee on Bill of Rights.

(Report adopted.)

Mr. TRAUTMANN (St. Clair). I move the Convention take a recess until four o'clock.

(Motion prevailed.)

Whereupon a recess was taken by the Convention to Wednesday, May 26, A. D. 1920, at four o'clock P. M.

4:00 o'Clock P. M.

The Convention met pursuant to recess.

The President in the chair.

THE PRESIDENT. The convention will please come to order. When the convention adjourned, a report had just been submitted from the committee of the whole on the report of the committee on Corporations. There are other matters on the general orders for hearing. The Convention will now resolve itself into the committee of the whole for the purpose of hearing matters on the general orders. As chairman of the Committee of the whole, the chair designates Delegate Shanahan of Cook county.

(Chairman Shanahan Presiding.)

CHAIRMAN SHANAHAN. The committee will please come to order. The chair will recognize the gentleman from Cook county, Mr. O'Brien.

Mr. O'BRIEN (Cook). I did not understand that the report of the Committee on Miscellaneous Subjects was on the general orders for to-day. I move you that the Committee of Legislative Department be given preference and the consideration of the report of that committee be had at this time.

(Motion prevailed.)

CHAIRMAN SHANAHAN. The report of the Committee on Legislative Department is before the committee of the whole. The clerk will read the report.

(Report read by secretary.)

CHAIRMAN SHANAHAN (You have heard the heading of the proposal. Mr. BRENHOLT (Madison). I suggest we take it up section by section.

CHAIRMAN SHANAHAN. This was reported out unanimously by the Committee, but delegate Mighell (Kane) and Delegate Fifer (McLean) reserve the right to offer, if they desire, amendments to section thirty-three. I will state further that all the changes made in the present constitution are noted in italics in the printed proposal. The clerk will please read section one.

(Section one read by secretary.)

Mr. MORRIS (Cook). I move the adoption of section one.

(Section one adopted.)

CHAIRMAN SHANAHAN. Please read section two.

(Section two read by Secretary.)

Mr. TRAEGER (Cook). I move the adoption of section two.

(Section two adopted.)

CHAIRMAN SHANAHAN. Please read section three. No change in section three.

(Section three read by secretary.)

Mr. MORRIS (Cook). I move the adoption of section three.

(Section three adopted.)

CHAIRMAN SHANAHAN. Please read section four.

(Section four read by secretary.)

Mr. PADDOCK (Sangamon). I move the adoption of section four.

(Section four adopted.)

CHAIRMAN SHANAHAN. Please read section five. No change in section five.

(Section five read by Secretary.)

Mr. MORRIS (Cook). I move the adoption of the section.

(Section five adopted.)

CHAIRMAN SHANAHAN. Please read section nine.

(Section nine read by secretary.)

Mr. PADDOCK (Sangamon). I move the adoption of section nine.

(Section nine adopted.)

CHAIRMAN SHANAHAN. Please read section ten. The change in ten is made from two days to three days.

(Section ten read by secretary.)

Mr. LATCHFORD (Cook). I move its adoption.

Section ten adopted.)

CHAIRMAN SHANAHAN. Please read section eleven.

(Section eleven read by secretary.)

Mr. PADDOCK (Sangamon). I move the adoption of section eleven.

(Section eleven adopted.)

CHAIRMAN SHANAHAN. Please read section twelve. No changes in section twelve.

(Section twelve read by secretary.)

Mr. ROSENBERG (Cook). I move its adoption.

(Section twelve adopted.)

CHAIRMAN SHANAHAN. Please read section thirteen.

(Section thirteen read by secretary.)

Mr. BARR (Will). In the sixteenth line, I think the letter "a" should be "the", as printed in the report.

CHAIRMAN SHANAHAN. Yes, that is a typographical error.

Mr. GALE (Knox). Beginning with line twelve "appropriation act shall not take effect until the first of July next after that enactment," I wish to ask whether it is always likely to continue to be true those will be passed by the legislature prior to July 1, because I can see if this were not so that this sentence might occasion considerable inconvenience to the state.

Mr. LINDLY (Bond). Appropriation bills are generally passed at that time because the fiscal year commences then, and that is the necessity for putting it on that day.

Mr. GALE (Knox). Suppose the Appropriation Act was not passed until after July 1st?

Mr. LINDLY (Bond). The appropriation bills are taken care of before that time.

Mr. BARR (Will). I want to call your attention to this language in the section, that appropriation act in section thirteen shall not take effect until the first day of July next after their enactment; if it should be possible that the appropriation bills be not enacted until after the first day of July, then of course they would not take effect until the first of next July and that would be inconsistent with section eighteen, which provides that each general assembly shall provide for all appropriation necessary for the ordinary and contingent expenses of the government for the fiscal period beginning the first day of July of the year in which such General Assembly convenes.

CHAIRMAN SHANAHAN. Any appropriation bill that would be passed after the first of July would be passed as an emergency measure.

Mr. BARR (Will). And it could take effect immediately?

CHAIRMAN SHANAHAN. Yes, and it would provide it would run from the date specified in section eighteen.

Mr. GALE (Knox). It seems to me under the wording of this section that "unless in case of emergency", can apply only to the other acts, "until sixty days after the adjournment of the session of the General Assembly at which they are enacted, unless, in case of emergency"——

CHAIRMAN SHANAHAN. It applies to both. That was under discussion for a couple of hours in the committee.

Mr. BARR (Will). We had that point under consideration in the Committee on Legislative Department and the committee was thoroughly of the opinion that the proper construction was that the reference to emergency provision would apply both to appropriation acts and to other acts of the legislature.

Mr. HAMILL (Cook). May I ask whether it was considered in your committee that that could be much clearer if the "unless" clause was put first?

Mr. BARR (Will). I do not know that that particular matter was taken up. I suggest the Committee on Phraseology and Style might transfer that and might make it more definite. We thought it was definite, but perhaps it may not be as definite as it would appear on more study.

Mr. MORRIS (Cook). There cannot be any objection to the Committee on Phraseology and Style changing it, because that is the intention of the members of this Convention, that the emergency clause should be applicable to not only appropriation bills but to other bills.

Mr. HAMILL (Cook). I think the committee would be glad if some member would explain just what the effect of the changes noted in lines ten to fifteen of section thirteen cover, and the purposes of those changes.

Mr. BARR (Will). I can explain beginning with line twelve, because I was on the sub-committee that had that matter up. That appropriation acts shall not take effect until the first day of July next after their enactment—the old Constitution provided that no act of the General Assembly shall take effect until the first day of July next after its passage, and complaint was made that a good deal of difficulty had been had to the fact that many of the bills were not enacted until practically the first of July, and it took from sixty to ninety days before those laws could be published and put into print, and as a rule our experience has been that laws had been in force for a considerable period before it was possible for the people to find out what those laws were, and it was deemed advisable to give a period of time until after the laws became effective within which the Secretary of State might have them printed, so they could be known by the people of the State before they became effective, instead of their being effective for sixty to ninety days. That was the purpose of giving some time after their enactment before they became effective, and a definite time was fixed to take effect sixty days after their enactment, so all laws would take effect upon the same day instead of certain number of days after the adjournment of the session. That is, all laws shall become effective a certain number of days after the adjournment of the session, so they would be effective on same day, and the provision for the appropriation bills was made separate because the fiscal year began on July first, and we thought that the appropriation bills should take effect on July first.

Mr. GALE (Knox). I am heartily in favor of the changes that have been made. The only question that arises in my mind, and my doubt has not been removed; the "Appropriation Acts shall not take effect until the first day of July next after their enactment;" then you go on and say on other acts until sixty days after the adjournment of the session of the General Assembly in which they are enacted, unless in case of emergency, which may properly apply to the other acts as to which the definite time is not expressed, but to-wit: sixty days after the adjournment. You have the emergency clause to take care of that, and my point is that the emergency clause would not take care of the appropriation act, and that is why I asked if there was any danger of the appropriation acts not being passed until after July first, and if there is any such danger, and the gentlemen who are familiar with the General Assembly can enlighten us on that—I am in favor of this wording exactly as it is.

Mr. BARR (Will). Replying to the question of the delegate from Knox (Gale) the committee felt that the language of that section beginning with the wording "Appropriation Act shall not take effect until the first day of July next after their enactment," nor any acts until sixty days after the adjournment of the session of the General Assembly at which they are enacted, is one sentence and is so closely connected with the word "nor" that they can be subject to no other construction than that the emergency clause applies to both, and we had some authority in helping devise this language, and we are convinced that is the proper interpretation and it is not subject to the interpretations suggested by the delegate from Knox.

Mr. GRAY (Adams). I wish to call the committee's attention to the rules of punctuation that I think all rhetorics and grammars agree upon, where there are two clauses intended to be coupled together, and with the conjunction "and" will remove that doubt, and I would suggest instead of the word "nor," if there is any doubt in the minds of the committee as to whether both clauses would be included, I am sure, according to the rules of punctuation which I followed in my teachings, would combine

both clauses so that the following provision would refer to both, where the word "nor" is not so usually regarded. I offer that for what it is worth.

Mr. RINAKER (Maccupin). The intention of the sub-committee having this matter in charge, and the committee in acting upon this report, was that the emergency provision should apply to both appropriations and other acts, and even with the criticism of the gentleman from Knox (Gale) I am unable to read it any other way. The word "unless" applies to each clause. It seems to me that if following the negation in line thirteen you change "nor" to "and" you would have an inconsistency that would interfere with the intention of the committee, and, as we think, with the construction. If, as suggested, the emergency provision should precede both designations of acts, I think it would simply transfer the uncertainty from one kind of act to the other act, but reading as it is, the intention is fully expressed.

Mr. CARLSTROM (Mercer). I am not familiar with the processes of legislation as I know the chairman of this committee is, but it occurs to me that in view of the fact that the provision of this section requires the printing of the amendment only before the taking of the final vote, that the dispensing of the requirement of reading at length does not give under ordinary circumstances an opportunity to know what a bill might contain, and unless there is some very excellent reason for not requiring the reading, it would seem to me that reading of the bill should be required at least once and preferably three times. I understand the legislature has not been in the habit of reading the bills at length, even under the old requirements, and I have an amendment to offer regarding that.

Mr. DUNLAP (Champaign). Replying to the inquiry as to why the change was made, I will say that the matter of reading the bills at large on three separate occasions, as provided in the old Constitution, was under consideration in the sub-committee and the difficulty in practice of reading the bills at large on three separate days in the General Assembly is practically impossible. If you are to do that, you would be in session the entire year, because there is something like one thousand bills that are reported, and it is an impossibility to read the bills at large. It was thought by the committee it would be better to express in the Constitution an actual practice that might be carried out, and that was to read by title on three different days in each house, but the rules of the house may provide the reading of the bills at greater length on second and third reading, and this would leave the matter of reading the bills to the rules of either house, as they might enact those rules, and it would be a matter of procedure in each house rather than a constitutional requirement that has been ignored in almost all instances. Under the rules provided by either house the bills could be read sufficiently, or under the rules of the house by a vote of the house they may be read at large, but it was thought best not to put in this requirement because it was not being carried out in the literal sense, it would be unnecessary and impracticable to put it in in the way it was.

Mr. SIX (Pike). Is there any objection to having printed in the final form for the discussion of the members for a given period before they are taken up?

CHAIRMAN SHANAHAN. They are printed together with amendments to all bills before they are put on for final passage.

Mr. SIX (Pike). There is nothing to provide that being done.

CHAIRMAN SHANAHAN. The rules of the house and senate provide that, and if I am not mistaken it is required here the bills and all amendments thereto except amendments striking out the emergency clause.

Mr. SIX (Pike). It does not say how long it shall be on the desks.

CHAIRMAN SHANAHAN. The rules of the house take care of that. No practical occasion has arisen in my experience that required it.

Mr. CARLSTROM (Mercer). My former law partner told me of bills that were passed that he had never seen, but had found in his postoffice box on the next day after the vote was taken.

Mr. DUNLAP (Champaign). If he had been up to his rights on that occasion he would ask to know whether it was printed or not. The Constitution requires that it should be printed.

Mr. CARLSTROM (Mercer). My recollection is he told me he was making a rather desperate effort to get a copy of it. Does this requirement provide, in line with the question of Mr. Six, that the bills shall be printed and in the hands of the members before voted upon?

Mr. DUNLAP (Champaign). The rules require that it be on the desks of the members.

Mr. CARLSTROM (Mercer). This does not require that.

Mr. DUNLAP (Champaign). If a member does not find the bill on his desk when it is called for consideration, he raises a question that the bill is not printed, and it has to be delivered, and action has to be taken in the house when that question is raised unless that bill is on the desks of the members.

CHAIRMAN SHANAHAN. The chair would like to state that at the present time the Constitution provides that all bills shall be read at large on three different days. The question has always been, what was the meaning of "at large." It has been the custom in both the house and the senate to read the title and one or two sections of the bill, unless a request was made that all the bills or portion of the bill be read. At times when the body would get unruly some member would want to hold up the sessions and demand would be made to read the bill in full. I remember in the last session of the legislature when the corporation bill that was talked about so much in the past few days was under consideration, a demand was made that the bill be read in full. The chair ordered the clerk to read the bill, and it took over five hours to read the bill. If the bill was read at length in full on three days it would have taken fifteen hours, which would be a week's session of the General Assembly. If every bill introduced in the General Assembly was read in full, I doubt if the General Assembly would ever complete its work. As expressed in the Constitution at the present time, the only thing it can do and does do is to hold up a session of the General Assembly by some member who is not satisfied on account of some action on a bill that he may have introduced. If the Constitution provides that the bill shall be read on three different days, and that the bill and all the amendments thereto shall be printed, there is no trouble whatever, and especially where it provides that the rules of the house and the senate may provide for further reading. I might say that quite a number of legal opinions were given as to the meaning of the words "at large," and no one would contend that it meant that the bill would be read in full, the intention being it should be read at large, and open.

Mr. DUNLAP (Champaign). I might supplement the chair's statement a little further and say that reading by title has the effect of bringing to the attention of the members of the house and senate the fact that that bill is under consideration, and that is what some have contended that the words "at large" mean, to bring it officially to the attention of the house or senate and not to read at length, as suggested by the chairman of this committee.

Mr. MICHAELSON (Cook). This means that the language of the old constitution is a greater protection to the people of the state of Illinois than the new language as expressed in the new draft. We have heard a great deal about the work of the legislature; how, in the last few hours of the session a great mass of legislation is rushed through; most of it unknown to the majority of the members of the General Assembly. In fact, an organized majority in the General Assembly can work so fast, and they have done so at times, that the ordinary member does not know what is going on, and the people suffer. The reading of a bill on three successive days in full is a safeguard toward proper legislation. The language should not be changed for that reason. It gives the public a chance to know what is going on, and it gives the member who is possibly not as quick to grasp an idea and work out legislation as others may be, gives him a chance to be heard when that bill is under consideration. I can easily picture a working

majority in this chamber, if you please, working under this new idea of reading by title so fast and passing legislation so fast that really it would take a master mind to keep track of the legislation as it goes through the House. It is a wrong idea. It may be business, big business, but it is not safe business, it is not safeguarding the interests of the people to do things so quickly. The most important legislation of interest to the people of the State of Illinois is passed by the General Assembly. Their lives and their property may be voted away without the knowledge of members of the General Assembly, and they have no recourse until possibly it was too late to say anything. I say this is a safeguard. The language should remain as in the old constitution. There is no necessity for reading by title, if the House would proceed and do as much work as it can while in session day by day, and not delay the work until the last few hours of the session, there would be no difficulty in this regard. It is true as the Speaker said, that one bill may take five hours to read. What harm is that in giving the public and the members of the General Assembly information as to what is contained in that bill? Why hurry the thing through? Other bills may be very short, and take but a moment to read, and the general average of all the bills in the session, they could be very easily read three times. We thought that was the thing to do, we embodied that in our rules that our proposals should be read three times. Why have we not read them by title? What is the difference between this body and the General Assembly as representing the people? I think we ought to move slowly on this thing and not rush into a channel which may prove dangerous. For that reason, Mr. Chairman, I wish to offer an amendment to strike out the words in italics in lines one, two and three of section thirteen, and insert in lieu thereof—

CHAIRMAN SHANAHAN. The gentleman from Mercer has offered such an amendment.

Mr. MICHAELSON (Cook). I want to support his amendment.

Mr. CARLSTROM (Mercer). As a matter of information, may I ask to have the amendment read.

THE SECRETARY (Reading). Amend section thirteen by striking out in line one the words "by title"; in lines two and three, the words "but the rules of either house may provide for the reading of all bills at greater length on second or third reading".

Mr. RINAKER (Macoupin). There is no necessity for the retention of the old verbiage of this section. No member of the legislature has any right to say in practice that he does not know of a bill until after its passage, and if he says that, he is one who is to blame because the bills are introduced, as our proposals are introduced, and printed, and every member has an opportunity to study the bills before they are reached on their successive processes of voting. The provision requiring the printing of the bill before the final vote is intended to show that the amendments that are offered on second reading are brought to the attention of the members of the House or the Senate, as is the bill itself, so there is no occasion for retaining the present language, and the change is really an improvement, and as suggested by the chairman the old language as it existed simply furnished an opportunity for killing time, being ugly and interfering with the orderly processes of legislation. The reading at large of a bill fifty years ago was much more necessary perhaps than now. There were not the same facilities for publication, and furnishing members with knowledge of pending bills that exists to-day and the practice in legislation furnishes, as I said before, full opportunity, and if the house or senate is advised by the reading of the title of the bill, each member who is attentive to his business knows what is before the House or Senate, and to make it a constitutional provision that anybody can insist on that every bill shall be read at large three times is simply imposing a ridiculous obstruction to orderly legislation, and every right is protected by the requirement as is proposed by the italics in this section, and I hope the amendment will carry.

Mr. JARMAN (Schuyler). Are you familiar with the debates in the Constitutional Convention of 1870 that caused that Constitutional Convention to place this requirement in the Constitution?

Mr. RINAKER (Macoupin). No.

Mr. HULL (Cook). I do not know what the attitude of this body toward the amendment is, but I hope it will not prevail. The gentleman from Cook, Mr. Michaelson, has talked of the piling up of work at the end of the session. It is a perfectly natural process that it piles up that way. Bills are introduced all through the session; usually there is a time limit for the introduction of bills, but that is not strictly followed, but they are generally introduced at the earlier part of the session. They all come out about the same time, just as these proposals are coming out, and the natural thing is to accumulate a lot of bills on the calendar that have to be considered at the end of the session on third reading. I make no apologies for the methods of the General Assembly. They are not better nor worse than the men in the General Assembly, but I think the General Assembly represents the body of the people as they are, and they mean to do right, and I believe the insertion of the word "at large" as formerly appeared in this section of the constitution is a mistake. It only leads to violation of the law, because it will be utterly impossible to read them at large. It has been suggested by the chairman of the committee that it took five hours to read a bill, when some obstructive tactics were resorted to by a member of the house. If anybody wanted to resort to the same obstructive tactics when sixty-nine or seventy bond bills of the city of Chicago came down here we would never have got through. They were brought down at the end of the session, and they had to be passed then, and there was a time for the adjournment of the session, and it would have been practically impossible to pass those bills with all the appropriation bills and the other legislation before the house. The provisions of the old Constitution, all of them, represent the inheritance of time when printing was not as cheap and as quick as it is now, when three readings were necessary to have the proper publicity in respect to matters that were before the General Assembly to prevent in that way fraud and surprise among the members of the General Assembly, but there is no reason why there should be a fraud or surprise on any member of the General Assembly if he is half way diligent in his duties as a member of the General Assembly, and the requirement that they should be read at large in the sense of full length, merely plays into the hands of a man who simply wants to filibuster against legislation in the General Assembly, and I believe it is a mistake to insist on having bills read at large, that all the requirements of proper publicity as to what is going on is served when the title of the bill is read, with the pronouncement of the Speaker of the House. The legislature has published for some sessions past, and I presume the practice will be continued, a complete digest of all the bills from week to week as they are introduced, and the member has only to get the number of the bill and turn to his digest that is on his desk to get the gist of the bill with three minutes of reading. I think it would be a mistake. It would not be observed; it would be violated in the future as in the past, and I believe we would make a mistake to put things in the Constitution which in practical operation have to be violated.

Mr. CARLSTROM (Mercer). As I said at the outset, I am not familiar with the processes of the legislature as are the chairman and members of this committee, but it occurred to me from the inspection of the 1919 session laws that certainly some bills had gotten through without much consideration.

Mr. HULL (Cook). Before the Constitution of 1870 it was common practice, and the volume of private bills that were passed by the legislature exceeded many times the amount of public measures that were passed, and the evil complained of arose out of that immense volume of private bills. I do not know whether you ever saw the Gilbert Bill that was presented to the Forty-Sixth General Assembly, a practice act. There were two volumes

of it, two pages as large as this page, and each half of it was five hundred pages; one thousand pages in that Gilbert Bill on Practice, and that would have taken a week to read if it had ever been read.

Mr. MICHALESON (Cook). Unfortunately, some of the districts are not so fortunate as to be represented by such men as Senator Hull, Senator Dunlap and others, and have to have a little more time and help in getting what is presented in the bills to the General Assembly. They are not able to provide secretaries to look over the bills to study them, digest them and bring in a report. They have to do those things themselves, and they are representing their districts, voting for their people, and I say if this is adopted legislation will be so hurried and so fast that vicious and bad legislation will have a much better chance to get by than it would under the old rule, and it would afford no chance for the ordinary representative to have a word to say. I say let us be careful about how we frame this up, because it is dangerous.

Mr. DEYOUNG (Cook). I am reluctant to take up the time of the Convention, but I must dissent from any statement about vicious legislation. My career in the legislative assembly of Illinois was brief, but it seems to me that the product of the Illinois General Assembly which will find its way in the statutes of the State, to characterize it as vicious, is something to which I cannot agree, and I dare say that any one who will take the trouble to go even briefly over the output of the General Assembly will find that such an indictment is baseless. So far as reading bills at length is concerned, men who have experience have testified in practice it is not observed, nor it cannot be. Let us turn to a legislative assembly that legislates not only for an area as great as Illinois, but upwards of one hundred millions of people, for a continent running from one ocean to another, and there is no provision in the Federal Constitution requiring what is proposed in the new proposal of the legislative department. Anybody knows that the reading of these bills in the General Assembly is largely perfunctory, and to say that even a dull member will gain his information or inspiration to vote right on a measure by a reading of the clerk, ignores experience, because it ignores altogether long and weary weeks of consideration in committees and afterwards it ignores the notice which is furnished by the daily calendar which shows the bills on first, second and third reading, and the order in which those bills will be called. Certainly a member of either house who depends upon how his vote is to be determined by a reading of the clerk is one derelict in the performance of his duty, and it seems to me, gentlemen of the Convention, when such men as the Speaker of the House, the chairman of this committee, and the Senator from the Fifth Illinois district, and the Senator from the district of Champaign, all these men who are veterans in legislative service and who have rendered a conspicuous service in the halls of legislation of Illinois, when these men are ready to say that we ought not to insist upon a practice that is not at all observed, it seems to me we can safely follow what they say, and when we know that the legislature of Illinois does not depend, and certainly not the people of Illinois depend on the simple reading of parts or all, if you will, of a bill that is pending on its passage, whether second or third reading, I believe the committee's report ought to be the report, gentlemen, of the committee.

CHAIRMAN SHANAHAN. The question is on the amendment of the delegate from Mercer.

(Amendment lost.)

CHAIRMAN SHANAHAN. Please read section fourteen. No change in that section.

(Section fourteen read by the secretary.)

Mr. ROSENBERG (Cook). I move that section fourteen be adopted.

(Section fourteen adopted.)

CHAIRMAN SHANAHAH. There is no change in section fifteen except that a part of the section is left out, and it is all incorporated in the new section twenty-five, which was really a repetition in the old Constitution. Will the clerk please read section fifteen.

(Section fifteen read by the secretary.)

Mr. HOLLENBECK (Coles). I move its adoption.

(Section fifteen adopted.)

CHAIRMAN SHANAHAH. There is just one word added to section sixteen. Will the secretary please read section sixteen.

(Section sixteen read by secretary.)

Mr. RINAKER (Macoupin). I move the adoption of section sixteen.

(Section sixteen adopted.)

CHAIRMAN SHANAHAH. There is no change in section seventeen. Will the clerk please read section seventeen?

(Section seventeen read by the secretary.)

Mr. REVELL (Cook). I move its adoption.

(Section seventeen adopted.)

CHAIRMAN SHANAHAH. Please read section eighteen.

(Section eighteen read.)

Mr. DUNLAP (Champaign). The first amendment in italics was put in for the purpose of determining the fiscal year, the beginning and ending of the biennial period upon which appropriation bills should be applied. The present Constitution says they shall continue until the end of the quarter following the adjournment of the General Assembly, and it makes an embarrassment for the finance department because of the fact instead of having a biennial period, it is really two years and three months, and the present amendment provides that while the period will be for two years the payment of bills incurred may continue for the ninety days additional time, but no additional contract can be let within that three months period. "All appropriations for expenditures in any biennial appropriation period shall be available only to meet obligations incurred before the June thirtieth which ends such appropriation period. The General Assembly, however, may authorize the payment of obligations incurred on or before such June thirtieth during a three months' period following that date, but shall have no authority to continue such appropriations for any other purpose or for any longer period."

CHAIRMAN SHANAHAH. In line fifteen some changes are made, changing "two hundred fifty thousand" to "one million" dollars, and in line twenty-two "total number" of votes; at the present time it is "number of votes cast for members of the General Assembly," and it is changed to the "total number of votes cast."

Mr. TRAEGER (Cook). I move its adoption.

Mr. SIX (Pike). I would like to ask the committee to state what was the objection to incorporating in the Constitution a plan for a budget system, what were the arguments for and against that proposition. I see none came out.

CHAIRMAN SHANAHAH. I would say in answer to your question, that the director of finance appeared before the committee and talked on a budget bill that had been presented, but the committee concluded that the budget system was practically too new at the present time to incorporate in the Constitution, and that if the committee at a later date decide to take up the question of the budget proposal that was submitted it could be reported later on to the Convention as a new section.

(Section eighteen adopted.)

CHAIRMAN SHANAHAH. Please read section nineteen. There are no changes in section nineteen.

(Section nineteen read by secretary.)

Mr. TRAEGER (Cook). I move its adoption.

(Section nineteen adopted.)

CHAIRMAN SHANAHAH. There are no changes in section twenty. I will ask the secretary to read section twenty.

(Section twenty read by the secretary.)

Mr. REVELL (Cook). I move its adoption.

(Section twenty adopted.)

CHAIRMAN SHANAHAN. Please read section twenty-one.

(Section twenty-one read by secretary.)

Mr. TRAEGER (Cook). I move its adoption.

CHAIRMAN SHANAHAN. The only change there is is "presiding officer" instead of "speaker."

Mr. DEYOUNG (Cook). Under the Constitution as it is now fixed, mileage is limited. That is fixed, as I understand it, until it is changed by the General Assembly.

CHAIRMAN SHANAHAN. Yes.

Mr. DEYOUNG (Cook). This would permit the General Assembly to provide all the mileage, whatever that was, for all the round trips may be and could be paid to the members of the General Assembly?

CHAIRMAN SHANAHAN. This provides that members may fix what the salary and mileage of the General Assembly might be.

Mr. DEYOUNG (Cook). The difference is between the present Constitution, which provides that ten cents a mile each way and for one round trip may be allowed, and this would permit them to refund the total cost of mileage for all the round trips made?

CHAIRMAN SHANAHAN. This would permit the General Assembly to take up the subject and pass a law on that.

Mr. DEYOUNG (Cook). This is in addition to the salary, the cost might be very much greater to the State than now?

CHAIRMAN SHANAHAN. If the General Assembly decided so to do. (Section twenty-one adopted.)

CHAIRMAN SHANAHAN. There is no change in section twenty-two. will the Clerk please read it?

(Section twenty-two read by clerk.)

Mr. GILBERT (Jefferson). I move its adoption.

Mr. JARMAN (Schuyler). I move an amendment to section twenty-two; add after the word "fish" in line twenty-four "a reasonable classification of waters may be made". This amendment is suggested by a case that I had in the Supreme Court in 1908, which is reported in the 277th Ill. I brought that suit questioning the constitutionality of the Fish and Game Act in 1908. The Supreme Court by a divided court four to three declared that the act with reference to the section attacked was unconstitutional. It was the case of People vs. Wilcox. I find it is referred to in Annotation of the Illinois Constitution of 1870 on page 116, and I will just read that extract. "In the People vs. Wilcox it was held that the purpose of this clause was to prevent the enactment of laws for the protection of fish and game, that would not operate in all the territories subject to jurisdiction of the State. In that case the act forbade fishing in any of the waters of the State, except Lake Michigan, by means of a hoop net or seine, unless the person desiring to use a hoop net or seine procured a license for that purpose from the County Clerk. It was held the exclusion of Lake Michigan from its operation rendered it a special law relating to the protection of fish and game. Three judges dissented, however, on the ground that this clause does not prevent the General Assembly from making a reasonable classification for the purpose of legislating on the subject of fish and game protection, and that exclusion of Lake Michigan in the act under consideration was based on a reasonable distinction between that body of water and other waters in the State, but the majority of the court held that the section was unconstitutional on account of this provision in this section. The purpose of my amendment is to enable the legislature, and I think it is very desirable, that the legislature in passing such laws may make a classification of the water. The law applicable to Lake Michigan is even not applicable to the other waters of the State, and the law applicable to some rivers of the State with reference to certain kinds of fish is not applicable to other waters and certain kinds of fish. This does not destroy the idea of special legislation with reference to game and fish, as this did before 1870. Up to that time the legislature at every session

passed a great many special laws with reference to fish and game applicable to separate counties, so we have a special fish and game law as to nearly every county in the State, and this section of the Constitution of 1870 was to prevent that, but it is a proper thing and a proper matter for the protection of fish to enable the legislature to make such a classification that will benefit the fish industry and protect the State.

(Motion prevailed.)

Mr. GILBERT (Jefferson). I move the adoption of section twenty-two as amended.

(Section twenty-two adopted as amended.)

CHAIRMAN SHANAHAN. Please read section twenty-three. There is quite a change in section twenty-three, by the addition of the last half.

Mr. MORRIS (Cook). I move its adoption, Mr. Chairman.

(Section twenty-three adopted.)

Mr. MICHAL (Cook). Following section twenty-three, I offer and submit a new section to be numbered twenty-three and a half, and ask to have it read.

THE SECRETARY (Reading). "That whenever either, or both, branches of the General Assembly shall pursuant to a resolution, jointly or otherwise, designate or appoint any committee constituted of members of the General Assembly to act either jointly or otherwise, for the purpose of holding hearings and investigations or conducting other legislative business pertinent to business matters and affairs, the rights, duties, powers and functions of such committee shall not cease, end and determine with and upon and the sine die adjournment of the General Assembly so appointing or designating such committee, but shall continue in force, effect and operation until the work and object of such committee shall be completed, provided however, that the life and existence of such committee shall not extend into and beyond the next following biennial session of the General Assembly. The General Assembly shall have the right, power and authority to make all necessary appropriation for such committee."

Mr. MICHAL (Cook). Mr. Chairman, and gentlemen of the Convention: I have heard it discussed in various talks with the members here where I am led to believe that there exists in the minds of the membership an unbounded faith in the legislature. Taking that view, I earnestly submit for your consideration this proposal. This proposal is calculated to meet the objections which were brought out in the recent case of Fergus vs. Russell, reported in the 270th Ill. Supreme. I shall not burden you with reading the entire case, but confine myself to the syllabus number twenty-four reported on page 307; "A committee appointed by joint resolution of the General Assembly for performing duties after the sine die adjournment of the General Assembly has no power or authority to act except as the members may volunteer to act as private individuals, and appropriation to pay the expenses of such a committee is invalid".

The exigencies of the occasion might require the attendance beyond the sine die adjournment of a committee investigating intricate matters or complicated subjects in order to give the citizens of the state and future legislators the benefit of those investigations. A committee now having under consideration any such matters dies with the sine die adjournment, and I think some provision ought to be made whereby they can carry on their work without any further hindrance. I move the adoption.

Mr. HAMILL (Cook). May I inquire whether this subject matter was under consideration?

CHAIRMAN SHANAHAN. It was not.

Mr. HAMILL (Cook). I move that this committee do recommend to the convention that this be referred to the Committee on Legislative Department.

Mr. MICHAL (Cook). Let's have action on it now.

Mr. JARMAN (Schuyler). In view of the fact this is a very important matter, and sometimes it is necessary to have legislative committees at work after the legislature adjourns—that often happens—and in view of the fact the Legislative Committee still has under consideration other sec-

tions, it seems to me the motion made by the gentleman from Cook (Hamill) should prevail, and let that committee consider this.

Mr. HAMILL (Cook). I think it is an important matter and I would like the advice of the Committee on Legislative Department.

CHAIRMAN SHANAHAN. The gentleman from Cook (Hamill) moves that the amendment offered by the gentleman from Cook (Michal) be recommended to the Convention with the further recommendation that it be referred to the Committee on Legislative Department.

(Motion prevailed.)

CHAIRMAN SHANAHAN. There is no change in section twenty-four. I will ask the clerk to read that section.

(Section twenty-four read by secretary.)

Mr. PADDOCK (Sangamon). I move its adoption.

(Section twenty-four adopted.)

CHAIRMAN SHANAHAN. Will the secretary please read section twenty-five?

(Section twenty-five read by secretary.)

Mr. LINDLY (Bond). Section twenty-five; I think the first half is the same as section fifteen, that the chairman called attention to, and we re-wrote section twenty-five and included what was in section fifteen so as to cover every possible condition that could arise, and after long consideration in the committee, sub-committee and the general committee, we adopted this section in the place of section fifteen. We tried to include every official that would be interested at all in contracts to be let. I move the adoption of this section twenty-five.

(Section twenty-five adopted.)

CHAIRMAN SHANAHAN. Please read section twenty-seven.

(Section twenty-seven read by Secretary.)

Mr. MICHAL (Cook). I want to offer an amendment to section twenty-seven, if you please. Add after the word "lottery" in line three the following: "or trading-stamps, trading premiums."

The purpose is to protect the small merchant from the unfair competitive methods of large merchants, the majority of whom are non-residents of this State. It is an unfair method of obtaining trade in any community by offering as an inducement trading-stamps or other devices whereby to secure the patronage of the people to trade in these stores. It is a thing we ought to take cognizance of, it is beneficial to the small merchant and it protects our people in our State, and I move its adoption.

Mr. REVELL (Cook). I do not know whether or not this matter might be taken care of by legislation, but I think the objection is very well taken. The people of any state should be protected from the trading-stamp proposition. It is not genuinely a merchantable proposition; it is a proposition where an inducement is extended by giving something entirely different from that which the people go to an establishment to purchase. It leads a great many people to pay a price which is not warranted by reason of the fact of this additional gift. I did not know that this matter was coming up. I doubt if I would want to vote for or against it today—but I am very sincere in saying I would like to have it reconsidered by the committee. I would like to go before the committee when it is under consideration. I do not believe it is wise to permit trading-stamps. Business should be done in the open. If a customer or consumer desires to purchase an article, a price should be placed on that article. Then it would be in equal competition with the small merchants, and with all other merchants, and without any regard to prizes or stamps, ten thousand of which may purchase a lamp or other article. I do not know that this is a matter that should go into the Constitution, and may vote against its incorporation therein, but I believe it is a matter that should receive consideration now that it is presented.

Mr. MILLER (Cook). Inasmuch as this matter is manifestly of much importance to many of our fellow-citizens, I move we recommend to the convention that this be referred to the Committee on Legislative Department to be seriously considered and voted on.

(Motion prevails.)

CHAIRMAN SHANAHAN. The question is upon the adoption of section twenty-seven.

Mr. SUTHERLAND (Cook). We can adopt this section temporarily, and when the Legislative Committee brings in its report it can be taken care of.

(Section twenty-seven adopted.)

CHAIRMAN SHANAHAN. Will the secretary please read section twenty-eight?

(Section twenty-eight read.)

Mr. ROSENBERG (Cook). I move that section twenty-eight be adopted.

(Section twenty-eight adopted.)

CHAIRMAN SHANAHAN. Please read section thirty.

Mr. LINDLY (Bond). Section thirty provides that the General Assembly may provide for establishing and opening roads and other ways on or under the surface, connected with a public road or mine, for private or public use. We thought it was necessary in order to provide some way for those private mines that are out from the roadway. There was some question whether under the present conditions there could be a way on or under the surface connecting with the public road, so we inserted it here, and if it covers the case entirely I think it ought to be adopted.

Mr. MICHAELSON (Cook). May I ask if this section will permit the construction of subways, say in the city of Chicago?

Mr. LINDLY (Bond). I do not think it would, unless it connected with public ways. I do not think this would have any connection with that.

Mr. MICHAELSON (Cook). Suppose we wanted to put a sub-way under State street.

Mr. LINDLY (Bond). This would not interfere with it, or it would not authorize it.

Mr. MICHAELSON (Cook). But the legislature by an act could grant permission for the construction of a road under State street, for instance?

Mr. LINDLY (Bond). I think the legislature could pass a law giving them the privilege to construct it, but it would not be under this section, nor pertaining at all to this section.

Mr. MICHAELSON (Cook). Why?

Mr. LINDLY (Bond). Because this is connected with public roads or mines for public or private use, that is, connecting up any mines or any establishment that is off the road to the road.

Mr. MICHAELSON (Cook). Any street in Chicago is a road, and if we want to put a passageway under the street, which we would call a sub-way—

Mr. DUNLAP (Champaign). Do you consider a street in a municipality is a public road?

Mr. MICHAELSON (Cook). Yes.

Mr. SUTHERLAND (Cook). Suppose we had one sub-way running out Halsted street and another running out State street. Would this make it possible to connect a sub-way, not necessarily following the line of the street, under private homes or other buildings between two thoroughfares?

Mr. LINDLY (Bond). We had under consideration nothing about sub-ways in cities, nor was that question brought before the committee or sub-committee, simply the question where we tried to cover that the mines that were off the road should be permitted to connect with the highway.

Mr. SUTHERLAND (Cook). It seems to me, Mr. Chairman, this ought to be considered in connection with the operation of sub-ways and other operations in cities.

Mr. HULL (Cook). The subject matter has been referred to the Committee on Municipalities and Chicago and Cook County. You remember I offered an amendment which was also passed, to the effect that no law should be passed by the General Assembly granting the right to construct or operate any public utility with any city, village or incorporated town, requiring the occupation or use of the street, alleys, or public highways, by

permanent fixtures or equipment without requiring the consent of the corporate authorities. That proposal will come out of one of the committees, the Committee on Municipalities or Chicago and Cook County, and will, I think, cover the situation that is in the minds of some of the members of this Convention.

Mr. CARLSTROM (Mercer). Have you a coal mine that you wanted to connect with any way?

Mr. LINDLY (Bond). There was no special coal mine, it was a question which came up; there were no mining interests appeared before the committee that I know of, or that requested it.

Mr. PARKER (Saline). This says "opening roads and other ways on or under the surface."

Mr. LINDLY (Bond). It says connected with public roads or mines.

Mr. PARKER (Saline). Why have it under the surface if you want to have connection with a public road?

Mr. LINDLY (Bond). This question was discussed by the committee, and thinking that a mine might perhaps be back away from the road, if you want to go under the surface or on top, that point was raised, and we simply put that in for that purpose.

Mr. PARKER (Saline). I think that is a mistake, the way it reads, and I will be bound to vote against it.

Mr. Trautman (St. Clair). Suppose you had eighty acres of land right next to a road, and the coal had been sold, and the mine wanted to get to the coal underneath your land, couldn't they do it under this and run right through your land?

Mr. LINDLY (Bond). I never thought so.

Mr. TRAUTMAN (St. Clair). What is the object of giving the right under ground?

Mr. LINDLY (Bond). I have no objection to striking it out, I have no interest in it, whatever.

Mr. MILLER (Cook). I am wondering why this would not permit the legislature to authorize the construction of tunnels for private use in the cities connecting, for instance, some of the stores, the large department stores, some of which are owned by foreigners and others, and it seems strange to put in the Constitution a provision for making subways through private property for private use, because they happen to be connected with the road.

Mr. LINDLY (Bond). I move to strike out "or under," so it would read "and other ways on the surface, connected with a public road or mine, for private or public use."

Mr. MILLER (Cook). In view of the fact that this is solely for the purpose of private roads through other people's property, I move as a substitute that the whole subject be stricken out.

Mr. LINDLY (Bond). I do not believe you understand this proposition. The Constitution provides that it is for the purpose of a mine. "The General Assembly may provide for establishing and opening roads and other ways on the surface, connected with a public road"—strike out "or mine"—"for private or public use." This is on the surface, there is no objection to it, and I move to strike out "or under."

Mr. HAMILL (Cook). We have been in session since nine o'clock. This has proved more complicated than we at first supposed, and I think we can give it clearer judgment tomorrow. I move the Committee do now arise, report progress and ask leave to sit again.

(Motion prevailed.)

(President Woodward presiding.)

Mr. SHANAHAN (Cook). The Committee of the Whole has met, desires to report progress and asks leave to sit again, and further reports that section twenty-three and a half, together with a report adopted and the amendment offered by Mr. Michal be reported to the Convention with the recommendation that it be referred to the Committee on Legislative Department for consideration.

Mr. HAMILL (Cook). I move this Convention do now adjourn until nine o'clock tomorrow morning.

THE PRESIDENT. The chair desires to call attention to the fact that the Committee on Phraseology and Style has made a report which under the rules goes on the calendar for second reading. The report of that committee has been printed and has been placed upon the desks of the delegates. That is subject to call tomorrow morning when the order of second reading is reached.

Whereupon an adjournment was taken by the convention to Thursday, May 27, A. D., 1920, nine o'clock a. m.

THURSDAY, MAY 27, 1920.**9:00 o'Clock A. M.**

The Convention met pursuant to adjournment.

The President in the chair.

Prayer by the Chaplain.

THE PRESIDENT. The Journal of Tuesday, May 25, 1920, was placed on the desks of the delegates on yesterday and is now subject to correction. There being no corrections proposed, the Journal of May 25, 1920, will stand approved, and it is so ordered.

Whereupon the Convention further proceeded upon the order of special orders of the day, reports of standing committees.

THE PRESIDENT. The Committee on Rules and Procedure submits a report.

"Your Committee on Rules and Procedure recommends that Proposal 369, reported by the Committee on Executive Department, be taken from the table and placed on the general orders for consideration in committee of the whole".

(Report adopted.)

Whereupon the Convention further proceeded upon the order of reports of standing committees, reports of select committees, introduction of proposals, first reading of proposals, second reading of proposals.

THE PRESIDENT. Under the order of business of second reading of proposals, the report of the Committee on Phraseology and Style relative to Proposal 339 is on the calendar and is now ready for consideration by the Convention. The Secretary will please read the report of the Committee on Phraseology and Style.

(Report read by Secretary.)

THE PRESIDENT. The question is shall the proposal pass. Any amendments offered?

Mr. HAMILL (Cook). The proposal as just read by the clerk is in the form of a recommendation by your committee on Phraseology and Style. The printed report of that committee was laid on the desks of the delegates yesterday afternoon. In that report there is set forth the specific amendments recommended by your committee and the form of the article as adopted in committee of the whole. Then is set forth the proposal in the form it will take if those recommendations are followed and as just read by the clerk of the Convention. Then is set forth a memorandum prepared by your committee explaining first why the amendments are recommended, and secondly, giving to the convention the interpretation put upon the section by your Committee on Phraseology and Style, assuming the amendments recommended are adopted. Your committee has made the report in that form so that the Convention might be advised of the precise meaning which your committee has assumed that the convention intended to express. If the delegates have read the report further comments from your Committee on Phraseology and Style would seem to be unnecessary.

I move the adoption of section one as reported by the Committee on Phraseology and Style.

(Motion prevailed.)

Mr. HAMILL (Cook). I hope the delegates have what is set forth in the report of the Committees on section two. It commences about the bottom paragraph on page six of the report. In the report we have set forth what section two means in the form submitted, which is the same form approved in committee of the whole, and point out some of the embarrassments that may be occasioned by retention of this section. This report was gone over with the Committee on Military Affairs, and I understand

that they voted unanimously to move on second reading that that section be stricken out. As Chairman of the Committee on Phraseology I express no opinion, it being not the function of that committee to pass on substance. As an individual member of the convention, I am strongly of the opinion that the section should be eliminated.

Mr. CARLSTROM (Mercer). The argument with respect to section two is the committee suggests that the fact that this provision requires that the General Assembly shall provide for the organization and discipline of militia as nearly as practicable in conformity with the regulation of the United States Army may operate as a possibility for questioning the constitutionality of any act passed by the legislature for the organization and discipline of the militia of the state. My answer to that proposition is two-fold. First, this proposition has been in the Constitution of Illinois for fifty years, and Illinois was one of the three states in the United States when the war broke out that had a complete division, in addition to the First Illinois Field Artillery which went to the Rainbow Division. Evidently this has not injured the militia in Illinois in fifty years, so that the fear expressed with respect to the effect it might have as to legislation was without foundation. Secondly, I believe that the Constitution has declared, if it declares anything, that the policy of the state with reference to its militia should be that the organization and discipline and equipment should conform as nearly as practicable to the regulations of the army of the United States, for the reason that when the National Guard was called into the federal service it would be in conformity in organization and equipment and training with that administered in the regular army and consequently would be in a better position to take its part and place in connection with the regular troops of the country. I believe that fifty years of experience refutes absolutely any question of danger arising from that consideration. I believe it is the proper military policy for the state to declare, and personally I should like to see this section retained.

Mr. HAMILL (Cook). Are you aware of any decision of the Supreme Court passing upon the constitutionality of any section challenged under section two of that article?

Mr. CARLSTROM (Mercer). I know of none.

Mr. HAMILL (Cook). Then the Supreme Court has not had occasion to determine whether enactments of the legislature are constitutional under this section?

Mr. CARLSTROM (Mercer). I do not care to assume that the Supreme Court might or might not do anything on that proposition, but I think for fifty years no court in the State has had occasion to question the possibilities of the legislation.

Mr. HAMILL (Cook). I am wondering what value the fifty years' experience is if the question has not been raised.

Mr. CARLSTROM (Mercer). I can conceive of nothing that would have greater value than the fact that any pronouncement should have stood unchanged for fifty years.

Mr. SIX (Pike). Section two has the additional advantage which experience has shown is necessary to the Nation. There is a militia of the United States as well as of the States. While it consists no doubt of the same persons, yet there is a different method of calling it into action. The United States has had some difficulty with the legislatures of the various states in attempting to use the organized forces of the United States militia. That has been true especially with the militia of New York and South Carolina. This has a tendency to support the United States Government in its attempt to provide for the organization within the state, so far as it follows, and it does follow, the congressional enactment in regard to that proposition. It occurs to me that any act of the legislature which does not conform to federal regulations would be that much of a lack of federal support, which is so often needed in times of emergency. In regard to equipment and supplies, the United States Government furnishes such equipment upon requisition by the State and makes Congressional appropriation for the support of the militia, so there is not the

handicap which might come about by legislative action under this constitutional provision. I think the provision is an advantage instead of a disadvantage both to the State and Federal Government.

Mr. CRUDEN (Cook). I am a member of the Committee on Military Affairs, and was one of the members that sat in with the Committee on Phraseology and Style on Tuesday. The question was presented then and seven out of nine members of the committee instructed the chairman to advise this Convention to eliminate section two of the article. Colonel Beckman has had some military experience and he thought that the ideas of Mr. Hamill should be carried out, and therefore I make that statement for him. I move that section two be stricken out.

Mr. HAMILL (Cook). Speaking now, not as a member of the Committee on Phraseology and Style, but as a delegate of this Convention, I recognize fully the value of conformity in regulations between the militia and the army. I am in full sympathy with the desire expressed by the delegates who have last spoken. They should conform, but it is one thing to say that the regulations of the militia shall be along certain lines or ought to be along certain lines, and another thing to write in the Constitution that the General Assembly shall so organize. That means, if I understand it correctly, that the General Assembly in passing laws for the organization of the militia must in those laws prescribe the regulations for the organizations, equipment, discipline and arming of the militia. Now, if they do so, and those regulations incorporated in the statutes are conformable as nearly as practicable with the regulations, then in existence for the armies of the United States, the act is valid. If they do not conform as nearly as practicable with the regulations in force the act is unconstitutional. In other words, the constitutionality of the enactment by our General Assembly is made to depend, not upon its conformity with regulations which anybody can read in our Constitution, and not even in their conformity with the provisions or enactments by Congress which anybody may read, but made to depend on its conformity with departmental regulations of the department of another government which may change from time to time; and gentlemen, you do not accomplish what you are trying to accomplish for this reason. Suppose the act does conform, but supposing a week after this passes, the regulations for the government of the armies of the United States are changed? Then your military authorities in Illinois cannot make the changes to conform with the changes made in the army of the United States, and your militia are under regulations which depart from the regulations of the army and will necessarily depart until your General Assembly can act on the question another time, and that may be two years. You are defeating the very purpose you are after. The regulations for the arming, equipment and discipline of the militia are imposed necessarily by administrative regulations. The man or men who are handling the army must be permitted to determine from time to time as emergencies arise, as requirements demand, how troops shall be brigaded, how armed, how combined, how many officers shall be appointed, what character of officers—I am not a military man, but I know enough of war to know that this is the case. If then your General Assembly regulates that in the statute, which is inflexible, the very purpose that the section seeks to accomplish will be defeated.

Mr. CARLSTROM (Mercer). In reply to the gentleman from Cook (Hamill), I do not know how far he has impressed himself upon the military policy of the State for fifty years, but happily he will not determine the military policy of the State in the years to come. The Adjutant General of Illinois, who has been connected with that office for twenty-two years, told the committee this provision conflicted in no way with the development of the militia of Illinois. It is a declaration of policy under which we develop our militia. I do not understand that this Convention is controlled by academic propositions alone. I believe we can trust the experience of the past, and I appeal to you as one having had a part in the military experience of Illinois, and based on the opinion of the Adjutant General, that we should leave this section in the Constitution.

Mr. MOORE (Macon). As a member of the Committee on Phraseology and Style, and also of the Committee on Military Affairs, I would like to call your attention to the fact that section two of this article was written at a time just following the Civil War, and I would like also to call attention to the fact that when the Civil War broke out esrolled on the coat of arms of the State of Illinois, in the upper part, was written "State sovereignty," and in the bottom was written "National Union," but after the war we rubbed it out and we put "National Union" at the top and "State Sovereignty" below. (Applause.)

The probabilities are that section two was put in for the purpose of forever quieting the people of Illinois who had thought that state sovereignty was of greater importance than national union, and so that the legislature would conform to the laws of the United States. Times have changed since then. No man to-day dares to say state sovereignty is above national union, and therefore I think that the same should not be retained if merely to humor the pride of certain men who think it should be wiped out on the ground that it is not necessary to tell the General Assembly of the State of Illinois to conform to United States laws. I hope the motion will prevail.

Mr. SIX (Pike). The scientific theoretical statement regarding this by the Chairman of the Committee on Phraseology and Style appealed to me as being sensible, all right, but I know as a practical matter there are difficulties in attempting to solve the problem if we strike this out. I know the federal regulations in 1917 required certain standards of equipment for the United States Army, and notwithstanding the fact that the United States Army requirements provided for the Springfield Rifle Model 1917, the fact is for many months I personally worked with training of troops and was compelled to use wooden sticks for rifles, and uniforms discarded from the equipment of 1898, and later in my experience in headquarters of a division, and particularly in the judge advocate's department we found that the units of the National Guard of more than forty states were provided with equipment of all kinds, and we had special men working on that matter with the various units with regard to guns, with regard to automobiles, and transportation facilities that the state had furnished to these troops. We were greatly handicapped by the fact that this equipment did not comply with the requirements of the federal laws respecting equipment. Now, if you have in every state constitution a provision like section two, you are going to reduce the difficulties which the federal government has when it calls out those units. The state should comply with the organization and regulations of the regular army, so we can make our forces effective. Now, gentlemen, avoid theory and get down to practical common sense. You are taking the time of men getting ready to defend the United States, and you can choose a theory or a practical matter. I say that the time of many men was taken with questions such as these, which involves the matter of what the state does before they are called out, and I think it is a waste of energy.

Mr. GREEN (Champaign). May I ask a question? Suppose that at the time the statute was passed the military regulations by the United States government prescribed blue uniforms, and it was written into the statutes; the act is passed, and a year later the federal government, not by an Act of Congress but by its departmental officers, prescribed khaki uniforms and the state would have a statute prescribing blue uniforms for the militia, while the regulations of the department of the government now prescribe khaki uniforms. What would be the result?

Mr. HAMILL (Cook). The result would be the officers of the state militia, the commander in chief, the Governor, and the Adjutant General would be obliged to continue the blue uniforms for the state militia until the General Assembly should change the law, and therefore, there would be a disparity.

Mr. RINAKER (Macoupin). I have very little knowledge in regard to military matters, but it does seem to me it would be a mistake to defeat this motion to strike out this clause, for as a matter of fact this clause, as I understand from the gentleman who spoke last on the proposition, has

been found to be ineffective in the practical organization of the militia, in that it does not accomplish the results that we want for it. For instance, in an emergency, when there must be prompt action by the militia, with this kind of a restriction on the statute books, if somebody raises the question as to whether or not the law then in force meets these requirements, in the emergency, and the courts stop action because of its unconstitutionality, we have absolutely prevented the very thing that everybody desires to have, which is an effective militia, and it seems to me as has been said by the gentleman from Macon (Moore), the purpose of this section was to emphasize the proposition that from that time forward the federal regulations were supreme. That is now the policy of the state and nobody questions it. No legislation will now be passed until it has been approved by the authorities of this State. They will be posted as to what those regulations are, they will advise the legislature in framing the law that shall be passed and there will be no chance then to make a mistake because you get something in that will be different from the United States regulations, thereby making your legislation unconstitutional. This is a freeing of the legislature, to strike out this clause. It is helping the militia and the military authorities and not restraining them. The motion, I think, should prevail.

Mr. BARR (Will). As a member of the Committee on Phraseology and Style, I think we are all very anxious to know what the Committee on Military Affairs desires with reference to this section, and I think the committee felt they were acting along the lines approved by the members of that committee, at least a large majority of the members, and I would like to ask the delegate from Cook who made the motion to strike out the section, whether or not I heard correctly when he stated that seven members of that committee were of the opinion that this section should be stricken from the report.

Mr. CRUDEN (Cook). Yes.

Mr. COOLLEY (Vermilion). As a member of the Committee on Military Affairs, it was my opinion and it is at this time that section one covered the entire situation. I feel we are at this time making much out of little. I shall vote to strike out this section.

THE PRESIDENT. The question is on the motion to strike out section two.

(Motion prevailed.)

THE PRESIDENT. The next is section three.

Mr. HAMILL (Cook). Section three, gentlemen, as reported by the Committee on Phraseology and Style is in the form adopted by the committee of the whole, and I now move its adoption.

(Motion prevailed, section three adopted.)

THE PRESIDENT. The next is section four.

Mr. HAMILL (Cook). The changes in section four are explained in the report which is before you. It means, in the opinion of your committee what it was intended to mean. We made the change because the word "militia" was used in section four, and had been defined in section one, and it was in our opinion clearly the intention of the convention not to use the word militia in section four in the same sense as defined in section one, so we substituted "members of the organized militia" for the word "militia" and re-inserted "Military" before "elections to confine attendance at military elections. I move the adoption of section four as reported.

(Motion prevailed and section four adopted.)

THE PRESIDENT. The next is section five.

Mr. HAMILL (Cook). I move the adoption of section five. The changes made are explained in the report.

(Motion prevailed; section five adopted.)

Mr. HAMILL (Cook). I now move the adoption of sections one, three, four and five and ask for a roll call under the rules.

(Motion prevailed; 54 ayes, 15 noes.)

THE PRESIDENT. The proposal having received a vote of the majority of those elected to the Convention, is adopted, and, under the rules, is referred to the Committee on Phraseology and Style, and the proposal is declared passed.

Mr. GORMAN (Cook). I rise to a question of information, Mr. President. I would like to be advised when the reports of the Committee on Phraseology and Style will be distributed in the future in relation to the time that votes are to be taken in regard to reports. I do not know when this report was distributed, but I did not receive mine until this morning, and on that account I rise to a question of information.

Mr. HAMILL (Cook). I do not know that I can give the gentleman concrete information. The committee put this in the hands of the printer before it was actually returned to the Convention so as to get it out as speedily as possible. They were distributed on the desks of the members about two o'clock yesterday afternoon, so if the members had looked at the contents of their desks they would have had a considerable opportunity to inform themselves of the contents of the report. Hereafter we will try to get this out as speedily as possible, but how long after they are distributed they will be on the calendar I cannot answer, because I cannot know what the condition of the calendar will be.

Whereupon the Convention further proceeded upon the order of motions and resolutions, unfinished business, general orders.

THE PRESIDENT. The Convention will now resolve itself into the Committee of the Whole for the purpose of considering matters on the general orders.

Mr. BRENHOLT (Madison). I have two petitions which I will ask to have referred to the Committee on Bill of Rights, Mr. President.

THE PRESIDENT. Without objections the petitions will be referred to the Committee on Bill of Rights. As chairman of the Committee of the Whole, the chair designates Delegate Shanahan of Cook county.

(Chairman Shanahan presiding.)

CHAIRMAN SHANAHAN. The Committee of the Whole will be in order. The clerk will read the record of the meeting of yesterday.

(Clerk reads minutes of meeting.)

CHAIRMAN SHANAHAN. When the committee adjourned on yesterday, section thirty was under consideration.

Mr. LINDLY (Bond). As there are several gentlemen who would like to be heard on this question, I move you now we recommend the Convention that it be re-referred to the Committee on Legislation.

Mr. MILLER (Cook). In view of that request, I will withdraw my motion to strike out.

Mr. LINDLY (Bond). I will withdraw my amendment also.

CHAIRMAN SHANAHAN. No objection, the motions may be withdrawn, and it is so ordered.

CHAIRMAN SHANAHAN. The next is section thirty-one.

Mr. DUNLAP (Champaign). There is a proposal before the Committee on Agriculture relating to drainage, and the committee has the matter about ready to make a report and will report about the first of the week. It has reference to this particular section, and the two, I think should be considered together. Perhaps the report of the committee is an amendment to this section—thirty-one—and I move that the consideration of section thirty-one be deferred for the present.

(Motion prevailed.)

CHAIRMAN SHANAHAN. The next section is thirty-two, which is the same as at present, "The General Assembly shall pass liberal homestead and exemption laws."

Mr. DUNLAP (Champaign). I move that section thirty-two be adopted.

(Motion prevailed; section thirty-two adopted.)

CHAIRMAN SHANAHAN. Section thirty-three is a new section on pensions, and the gentleman from Kane, Mr. Mighell, and the delegate from

McLean, Governor Fifer, desire the privilege of offering amendments to this section. Governor Fifer is not present and I suggest it go over until next week, when he is present.

Mr. MIGHELL (Kane). That is agreeable to me.

CHAIRMAN SHANAHAN. Action on section thirty-three is ordered deferred.

Mr. SUTHERLAND (Cook). When the chair was explaining the change in the report of section eighteen, yesterday, regarding the vote required to carry a bond issue, my attention was at the time distracted and the matter was passed before I had an opportunity to offer an amendment. I want to move, Mr. Chairman, that we reconsider the vote by which section eighteen was adopted, and the reason is that I may offer an amendment changing the standard by which the vote on bond issues may be adopted. I think we should conform as nearly as possible to the old standard, that was the vote for members of the House of Representatives. The language in the present Constitutions is members of the General Assembly. The committee recommends that the votes be the total number of votes cast at such election. At some time it seems to me desirable on matters of as much importance as constitutional changes and the adoption of State bond issues that we have a uniform standard. It also seemed to be desirable that we should depart a trifle from the very rigid standards of majority of all votes cast at such election and yet not adopt the easy standard of a majority of all votes cast on the proposition. I think that standard should be the standard originally maintained in this State in 1818 and 1848, namely the standard of votes cast for members of the General Assembly. It is apparent from the sentiment of this Convention, that, whereas minority voting and cumulative voting may be desirable and efficient when applied to commercial, financial and industrial activities, in the political field it is anathema. In the future, therefore, it will be easy to determine what is the total cast for members of the House of Representatives and the amendment I shall wish to offer is we strike out the words "total number of votes cast" in line twenty-two and insert in lieu thereof "votes cast for members of the House of Representatives."

Mr. DUNLAP (Champaign). It seems advisable to check up the matter of phraseology on the basis upon which this account shall be made. In the Committee on Legislative Matter this phraseology was included and the question was before the committee that some standard of expression ought to be used, some standard of the number of votes cast ought to prevail throughout the Constitution wherever such a vote is referred to. This matter is up before the Committee on Future Amendments to the Constitution, and it would be just as well to leave the language that has been adopted in this section already as to put in something else, because the other might have to be amended later on if we agree on some standard of expression with regard to it. I think we are taking up time unnecessarily in undertaking to reconsider this, as it can be reconsidered on second reading of the report of the Committee on Future Amendments, and there is no more certainty that the language that the gentleman has suggested will be the report of the committee than there is that the language of this section as it is now, so I think we will be taking up unnecessary time to reconsider at this time.

Mr. WALL (Pulaski). I quite agree with the gentleman from Champaign. We have raised here the limit of indebtedness from two hundred fifty thousand to one million. Now, this section also provides that this vote shall be at a general election. A general election includes the election of a great many officers. The result of our experience shows that when those votes are taken there is usually about one-half, and sometimes less than one-half, of the people who vote on any proposition submitted, but the excitement in the community over the desire to reach voters to get this or that candidate in office creates a spirit of forgetfulness on a matter of public policy, and probably there might be a vote whereby only one-half or one-third of the persons voting would cast a vote on that question. I

think it is a safe rule to follow. If we are going to incur indebtedness we should receive a majority of the votes cast at the election.

Mr. SUTHERLAND (Cook). This is purely a question of phraseology, and I will not press the motion at this time. With the understanding it is not a question of policy, but a question of phraseology, I will withdraw the motion.

Mr. HAMILL (Cook). I wish the committee to know that the Committee on Phraseology and Style will not accept the responsibility of determining that question. That is substance and not form.

Mr. DUNLAP (Champaign). I think the gentleman has the wrong conception of my statement. It was that the Committee on Future Amendments would prepare some standard by which this vote could be determined, and once determined by them and adopted by the Convention, that wherever the matter of total number of votes, or its equivalent, should occur in the Constitution, that that should be the standard authorized, so it would meet the requirements, and not the half dozen standards.

Mr. SUTHERLAND (Cook). I withdraw the amendment.

Mr. LOHMAN (Cook). For the purpose of completing the record, will the Chair please make a brief statement as to why section six, seven and eight, and also section twenty-nine were omitted?

CHAIRMAN SHANAHAN. Section twenty-nine was not referred to the Committee on Legislative Department. Sections six, seven and eight are still under consideration by the committee, and sub-committees have been appointed which have not reported, and the committee will report at a later time on those sections.

Mr. DAWES (Cook). I dislike to needlessly impose upon the time of the delegates, but there was a matter in connection with section twenty-five which it seemed to me ought to have more attention than it received at the hands of the committee yesterday. It is stated in that section "no member of the General Assembly shall be interested, either directly or indirectly, in any contract with the State," and then goes on to say that "no other officer of this State shall be interested, either directly or indirectly, in any contract entered into by the State," and no officer of any municipal corporation, county, town or other office, board or commission, shall be interested, directly or indirectly, in any contract entered into by such bodies."

I appreciate fully the purpose of the committee in submitting this section. I think there will be no one who will question that it ought to be left in precisely the words used in respect to members of the General Assembly. I ask this question with respect to other officers of the State. Are the words used here such as will accomplish exactly what the committee wishes to have accomplished without imposing some other restrictions? As a matter of illustration, I will assume that one of us is appointed to have charge of the Legislative Reference Bureau, and it happens that he is the owner of a few shares of stock of Swift & Company, and after he has been in the discharge of those duties for some time, someone discovers that he owns this stock and that Swift & Company are making sales to some of the largest institutions in the State. This man has no control whatever over those contracts. He has no opportunity, no participation in any wrong doing, no opportunity to correct any contracts, he has no connection whatever with those contracts. His service is entirely removed from it. It seems to me it is unnecessary to render such a man ineligible to public office. And with respect to municipalities, which are enlarging the sphere of their business in these days, they must have many officers whose duties are entirely detached from the duties of the contracting officers of the State. I ask this question: Will it not limit the number of citizens of responsibility and standing in their communities who will be eligible for appointment to public office, and is it not possible to throw restrictions about the matter of the fraudulent use of public funds without limiting the number of citizens who are eligible to the performance of public duty. I thought it might be worth while to submit that idea to the members of this Convention.

CHAIRMAN SHANAHAN. For the benefit of the convention, I will state that this section received a great deal of consideration at the hands

of the committee. It was the consensus of opinion that it should be reported to the convention in this language. The gentleman from Cook presented one side of the issue. Another side of the issue which might be presented and probably is a grave one, may be violated every day in the year under the present Constitution. There are two hundred four members of the General Assembly, who may hold shares of stock in Swift & Company, Armour & Company, Morris & Company, Wilson & Company, Cudahy & Company, all the meat packing companies of the State. They may hold one share, two shares, three shares or five shares, and if either one of these concerns enter into a contract with the State of Illinois to furnish meat to any of the institutions, it is a question whether the contract is legal or not, because some member of the General Assembly happens to hold one share of stock in that company, and the officers and directors of the company know nothing whatever about the ownership of the stock. It is a very difficult proposition to overlook.

Mr. DUNLAP (Champaign). I might say, in the committee I suggested that the words; "where such officer has to do with the letting of any contracts", and the objection to that was that those governing municipalities might have no connection with the letting of the contracts, but be very instrumental in getting that contract and very much interested in the proceeds of that contract, so, as the Chairman says, it is a very difficult situation and the committee met it as best they could.

Mr. LINDLY (Bond). I think if you open this door for the man who owns one share in these packing companies you open it for the fellow who owns a great many shares; you could not discriminate. And as for the committee, we thought, to be on the safe side, we will put this thing so no man connected with them could enter into a contract.

Mr. HAMILL (Cook). I desire some information from the members of the committee. Assuming a situation that has been suggested by my colleague, from Cook, Mr. Dawes, instead of taking a man in charge of the Legislative Reference Bureau, let us assume one of the judges of the Circuit or Superior Court happens to own some stock in a New York corporation, such as a telephone company, or building company, and a contract is let with the telephone company or the building company for some work to be done for the state. Is the contract voided, or is the judge owning shares of stock ousted from his office? What is the effect of the section?

Mr. LINDLY (Bond). I might say that the General Assembly, for which the member has so much respect, will take care of that.

Mr. HAMILL (Cook). I am not satisfied with the answer. The General Assembly doubtless could take care of it, if this section were not in the Constitution, but this is a limitation upon the power of the General Assembly, and it means something or it does not. If you say that no officer of the State shall be interested, and it follows that one who has been elected to office is interested, what happens? Is he thereby ousted from office, or is the contract made no contract? Let us find out what it means. I move, Mr. Chairman, a reconsideration of the section twenty-five.

Mr. WALL (Pulaski). I am opposed to a reconsideration of this section. The wisdom of this committee was as paramount on this section as any section of this article. There is no reason why any member of the General Assembly, or any Supreme court judge, or any member of any municipality, ought to be allowed to continue holding stock in an institution that makes a contract with the State. If he is elected to the General Assembly or to a judicial position or to the position of alderman or mayor of the city, he ought to, if he has stock in any concern that makes a contract with the municipality or the state, immediately get rid of that stock, and prevent the question of construction as to what would happen, whether the contract was broken or not.

Mr. HAMILL (Cook). Suppose he has bonds?

Mr. WALL (Pulaski). Let him dispose of his bonds. This is opening the door to a very unsafe and dangerous proceeding, and I think this com-

mittee is wise in the language of this section just as it is. It is safe, it is sound, it is wholesome, and it ought to remain just as it is.

Mr. MILLER (Cook). I was just wondering if we considered where this would lead, as to the municipal end of it. In Chicago we have numberless public utility corporations having securities upon the market, all of whom do business with the city; the telephone company, the gas company, and other public service companies; we have banks which do business with the city; we have various packing corporations; we have scores and scores of corporations with securities on the market, and who do business with the city. Would this not make illegal the holding of any sort of an office, from mayor up, in the City of Chicago by any one who held any of those securities? I am not sure at the present time that is not wise, but it seems to me that it is a matter which we should consider very carefully, the whole committee, and it seems to me we have not considered it carefully. Therefore, I am in favor of the motion to reconsider.

Mr. TODD (Peoria). I would like to ask if the gentleman thinks it would disqualify the mayor from holding office if he chances to own a bond of a corporation which had a contract with the city?

Mr. MILLER (Cook). Being a Yankee, I would like to ask the gentleman if it would not disqualify him?

Mr. TODD (Peoria). It would not.

Mr. MILLER (Cook). Why not?

Mr. TODD (Peoria). It would make the contract with the city voidable, perhaps, and allow the corporation to recover from the city for the part of the contract it had already performed and the value of the services rendered.

Mr. MILLER (Cook). The thing I would deplore would be the illegality in the first place of the man so disqualified taking office. It seems to me that will be unfortunate.

Mr. TODD (Peoria). You have not answered my question yet, and I have answered yours. Will you answer the question, if you think it would disqualify the mayor from taking office?

Mr. MILLER (Cook). My off-hand guess would be that it would, if he holds any securities in these corporations doing business with the city. If so, we are going to disqualify a very large percentage of our citizens from holding public office. I am not saying it is not proper.

Mr. MILLS (Macon). It seems to me, gentlemen, that the section ought to stand as it is. If a juror was selected and brought to the box and it was shown that he was interested or held stocks or bonds in a corporation that was interested in the result of the suit, then it would be up to the lawyers to excuse him for cause because he is a biased juror. The same should be true with a judge of the Supreme Court, Appellate Court, or any other court. When he is selected for these positions he ought to either dispose of his bonds or his stock and fix himself in a position so that he could impartially sit as a judge upon any question that might arise in the discharge of his duties and as an honest man, and he would do that, and I think the section ought to stand as it is.

Mr. TRAEGER (Cook). I want to say I am opposed to the reconsideration of section twenty-five. I believe that this is one of the greatest safeguards that we have in the State of Illinois. Fifty years ago in framing the Constitution of this State they then saw the need of this section. It is true there has been some latitude, but a man who is holding public office and is interested financially in a concern that may bid for whatever commodities the city or municipality may use is beyond a question financially interested and if I was in that position and stood here, Mr. Chairman, and told you I was not, you would form an opinion instantly I was not telling you the truth, because a man—and I might say most every man—will follow the dollar which he is interested in. This safeguard, although it may be violated to a certain extent from time to time, keeps a check upon all men who may be politically holding office, at the same time becoming interested in some corporation of some kind and then through their political position

may use their influence to further their own interests, and I am afraid that we have been somewhat lax in leaving out a great many safeguards that the Constitution of 1870 contained. We assume that everybody is honest until he is proved otherwise, but the opportunity that may present itself from time to time makes a great many of us act in our own interests, and I sincerely hope that this motion will be defeated.

Mr. TRAUTMANN (St. Clair). I do not believe the motion to reconsider should prevail. It seems to me that this Convention showed good judgment yesterday in adopting section twenty-five. The gentleman from Cook, Mr. Hamill, did not seem to be satisfied with the answer given, but I think the gentleman from Bond (Lindly) answered the question fully. The legislature will pass certain acts with reference to this section. They have passed some already, as far as they could go. Perhaps the gentleman from Cook recalls the provisions of the present Public Utilities Act, which provides that no member of that commission can be interested either directly or indirectly in any public service corporation, and if he should later become interested either by inheriting the stock or bonds, the act provides he must dispose of those holdings or retire from the commission. Now, I take it that no man in this house would say that that is a bad provision, providing no man on the Public Utilities Commission should be interested in any public service corporation in Illinois. Nor do I think any man holding a public office should be interested in any contract made by that municipal corporation of which he is a member. It may be true under certain circumstances it might be a little inconvenient for him to dispose of his stock, or it might be somewhat of a sacrifice, but he has to do then one or two things. He must either refuse to hold the office or else dispose of the stock. Now, then, we are coming along with the improvement of roads and highways. It would not be right that a man connected with the State Highway Department or Engineering Department be interested in a cement company or brick company or some other company that is disposing of materials to the State, and you can think of all these various contracts being made by the various municipalities, and I do not think that a man should be interested either directly or indirectly in any one of them, because as was said by the last gentleman from Cook, human nature is still the same, and we still seem to have a little more interest in the dollar we have invested than the other fellow's or the State's or the municipality's. Personally, I think we should not consider this section.

Mr. HAMILL (Cook). I agree with every word that has been said by the gentleman from St. Clair (Trautmann). I agree with every word said by my friend from Cook, Mr. Traeger. I would be very loath to see our Constitution so framed that any public officer could directly or indirectly cause the state or department of the State of which he was an officer to enter into a contract of benefit to a concern in which he held stock or bonds. I am in entire sympathy with that, but this section as I read it, goes further. It prevents a public officer from holding securities in a concern which may make a contract with a department of the State with which he has nothing to do, and with the making of which he has no concern, and that it seems to me is unwise. I may misunderstand the section. The reason I moved a reconsideration was because I am in doubt about what it means, and I think it should be further discussed. For instance, this provides "that no officer of a municipal corporation shall be interested in any contract entered into by such bodies." If I chance to be an alderman of the city of Chicago and I should hold stock in a concern that made a contract with the city of Quincy, have I violated this section?

Mr. LINDLY (Bond). I would like to ask the gentleman from Chicago (Hamill) if he thinks "the municipal corporation" would apply to Quincy when it applies simply to Chicago?

Mr. HAMILL (Cook). The gentleman has not read the section with care. There is a contract made with such a body, to-wit, a municipal corporation. I am an officer of a municipal corporation. It does not say with the municipal corporation of which he is an officer, but under the

terms of this section any public officer in the State is precluded from holding securities in any company that makes a contract with any other public body. I may misconstrue it, but it is susceptible of that meaning, and I think that is the reason it should be reconsidered. Every member in this Convention will agree that a public officer should not be directly or indirectly interested in a contract which he may cause to be made or which he may become in any way interested in, but let us frame it so it will mean that and not possibly something else.

Mr. LINDLY (Bond). I may not be capable of understanding phraseology as well as my friend. I cannot read this to mean anything else except it refers to the municipal corporation of which he is an officer. It cannot mean anything else, in my opinion, and I think the phraseology is not bad. If it is, when it goes to the honorable gentleman's committee, they can change that.

Mr. HAMILL (Cook). I want to find out what it means.

Mr. DAWES (Cook). I certainly would not want anyone to think I am not as anxious as any member of this body to check the abuse of the powers of public officers, but it is not always necessary to burn down the barn in order to get roast pig. In this particular case I am as much interested in the roast pig as anyone, but let's not burn down the barn to get it. We members of this assembly are not, strictly speaking, officers of the State, but we handle responsibilities as large as many of the officers who are now brought under the rule of this act. Have we divested ourselves of all stock and all bonds which might be in some manner affected by the action of this Convention? If we have, what bonds and what stock have we dispensed with? How would we know what contracts might be made? An officer of the state might conscientiously divest himself of every stock that he thought could be brought into such relationship with the State, but he might not divest himself of the stock of some corporation which at some time, without his knowledge, may enter into some contract with some other state agency. Now, the only question which I presented to the assembly was the question as to whether it had worded this in such manner as to accomplish all the objects that the members of this committee had in mind without inflicting any injury, and what I wished particularly to point out was there was a possible injury to the State if the words were adopted which would reduce the number of responsible men who were eligible to public office. I am not sorry I brought this question up, because I have learned it is the judgment of this assembly, as it was my judgment, that these words rendered a man ineligible to public office who had any direct or indirect interest in any contract that is made with the State, whether he is in any way responsible for that contract, whether he had any knowledge of the contract or not, and when the facts are disclosed he has such interests, his incumbency in that office terminates, and I think the remedy is too severe. As some one said here in this assembly the other day, it was not necessary to use a sledge hammer to drive a tack.

Mr. BARR (Will). When I first read this section I was very much of the opinion it was too sweeping in its statements, but the more I read it the less I think it is too sweeping. First, I do not believe that any court would hold that a person who held the bonds of a corporation was interested in that corporation. I do not surmise that when I go to the bank and borrow some money at the bank and they take my note that they are interested in my business. And I do not surmise that when I go to a broker and bank and buy bonds of a corporation that I thereby become interested, as the law would construe that term, in that corporation. We must not forget the difference between bondholder and stockholder. Stockholder is one of the persons who owns a part of the property, while a bondholder is simply a creditor of the corporation, and I doubt very seriously if the courts would hold a bondholder was interested in the corporation which had issued bonds. If that were true, any creditor, I assume of the corporation, would be interested in the same sense. I do not believe there is much in that. Let us read the first part of section twenty-five: "no member

of the General Assembly shall be interested either directly or indirectly, in any contract with the state". I am inclined to think that the language "indirectly" was put in there for a purpose. The law can scarcely discriminate in its language from one coming under this provision innocently and one not, and therefore it seems to me it was wise in order to prevent the thing that this was intended to prevent that the language "indirectly" should be used. Otherwise it might be construed it would be necessary to be a party to the contract, on the face of the contract, or a party in the actual negotiation.

Mr. MILLER (Cook). Will the gentleman yield to a question. If you were a large holder of bonds of say, the People's Gas, Light and Coal Company, those bonds now being on the market, would you be interested in seeing that that company got a remunerative contract?

Mr. BARR (Will). I presume in the sense I would be interested in not losing my money, I would be interested; in the sense of being interested as the term is used in this section, as it is ordinarily used in legal language, I would not be interested.

Mr. HAMILL (Cook). Suppose I am a member of the General Assembly and I have some stock in the People's Gas, Light and Coal Company, and while I am a member of the General Assembly the City Council of Chicago passes an ordinance by which the city agrees to pay a certain amount for the gas it consumes. Is that such a law as is referred to here?

Mr. BARR (Will). I would not think so.

Mr. HAMILL (Cook). You think it refers only to laws passed by the body of which I am a member?

Mr. BARR (Will). That is my opinion.

Mr. HAMILL (Cook). I am disposed to agree with you, but I am not certain.

Mr. BARR (Will). That would be my construction of it, and yet I am not certain. "No officer of this State shall be interested, directly or indirectly, in any contract entered into by the State." That part of the section was discussed at some considerable length. That is, there might be officers of the State who have nothing whatever to do with the department with which this contract has been entered into, and perhaps it was a hardship to make it illegal by one officer of the State, simply because he was an officer of the State, to be interested in a contract either directly or indirectly, with another department of the State, but the committee felt it would be very difficult to draw the line. The departments working more or less together, and the officers cooperating together more or less as State officers, it would be very difficult to do otherwise than to make the language of the section sweeping so as to limit or prevent all the officers of the State. We might say a contract made by the Secretary of the State would not affect an officer over in the State Auditor's department. Perhaps he would have nothing to do with it, and perhaps he ought not to be prevented from being indirectly interested in the other side of that contract.

Mr. HAMILL (Cook). Will the gentleman yield to a question. The word "officer" in line five "no officer of this State"—does that refer only to constitutional officers?

Mr. BARR (Will). I do not think it refers to that.

Mr. HAMILL (Cook). It refers to any offices?

Mr. BARR (Will). Yes.

Mr. HAMILL (Cook). If the superintendent of schools had some shares of stock in a bank and the treasurer of the State made a deposit of State funds in that bank, would it violate this provision?

Mr. BARR (Will). If it was a contract by which the Secretary of State was to get certain benefit or return from that deposit, I would be inclined to think so.

Mr. MILLER (Cook). There is a contract of deposit between the State and the bank, is there not?

Mr. BARR (Will). I presume so.

Mr. MILLER (Cook). And the bank must pay back the money deposited?

Mr. BARR (Will). Yes.

Mr. MILLER (Cook). If the State treasurer makes a deposit in a bank in which any State officer has any shares of stock, does he violate this provision?

Mr. BARR (Will). I think it would be difficult to see wherein the officer was particularly interested.

Mr. MILLER (Cook). It would not be a harmful violation?

Mr. BARR (Will). No.

Mr. MILLER (Cook). Isn't a bank interested in getting deposits and isn't a stockholder interested in getting deposits?

Mr. BARR (Will). Yes, but is there a contractual relation between the bank and its depositor unless there is some consideration passing in the way of paying interest?

Mr. MILLER (Cook). Whether payment of interest or not, the bank gets the benefit of the deposit and a stockholder is interested in the earnings of the bank in which he has stock.

Mr. BARR (Will). I think that would be a harmless violation of that statute.

Mr. LINDLY (Bond). The State treasurer is an officer of the State of Illinois under bond, and he is responsible for the place he puts his funds, and it could not in any sense be considered a contract entered into between the State and the bank. It is simply a contract between the treasurer and the bank because he is responsible under bond for that money.

Mr. BARR (Will). The last part of the clause, "and no officer of any municipal corporation, county, town, or other officer, board or commission, shall be interested, directly or indirectly, in any contract entered into by such bodies." It was the view of the committee, and I am inclined to think that the language of the section carries out possibly not very elegantly, the thought in the minds of the committee that the word "bodies" in the last line referred to any municipal corporation, county or town of which the person named might be an officer and did not refer to any municipal corporation, county or town anywhere in the State. I am inclined to think that is a correct interpretation of that language, notwithstanding the fact that the chairman of the Committee on Phraseology and Style, under whom I serve, and who does all the work for the committee, thinks to the contrary.

Mr. HAMILL (Cook). I do not think to the contrary. I am in doubt, I question it.

Mr. BARR (Will). I am inclined to think it would be very difficult to protect a municipality. I can appreciate the fact it may be a hardship that in any small town or perhaps a large city there might be some lines of business—I can see perhaps the State or a small town might need to buy gravel, and perhaps the only gravel pit in that locality was a pit that belonged to some officer in the city, and it might be a serious inconvenience for the municipality to be obliged to purchase this material from somebody else, and it would simply be an unfortunate limitation, but I believe we cannot make the necessary required limitations that will protect contracts of this character unless they are drawn so rigidly as may in many instances result in great inconvenience and some loss to the State or to the municipality or county and considerable embarrassment to the officer. I think unless there is some language that may be suggested that will carry with it the same degree of security as is incorporated in this section that we should be very careful about making and modification. However, as a member of this committee, I shall be very glad to incorporate any change or language that will carry with it the same degree of security and yet obviate the possibility of injustice to harmless violations of the principle set down.

Mr. MILLER (Cook). Would not you appreciate a re-reference of the section to your committee?

Mr. BARR (Will). We can appreciate the fact, Mr. Chairman, that we ought to get the thing as nearly right as possible. I am not chairman of the committee—but if there can be some language inserted that might change this section and yet not interfere with its security, I think the committee would be glad to give it consideration and I should be very glad to have a

motion prevail that this section be re-referred to the Committee on Legislative Matter for that purpose. I think I will make that motion.

Mr. SUTHERLAND (Cook). Point of order. The motion must be to reconsider the vote by which the section was adopted.

Mr. HAMILL (Cook). I do not agree with the gentleman who has spoken in his interpretation of the section. The section as drawn would invalidate contracts of deposit between the State or any department of the State and the bank in which officers of the State or departments of the State held shares of stock. I am therefore willing that the section should stand as drawn, and I shall anticipate with considerable amusement the shifting of shares of stock in banks of this State.

Mr. CARLSTROM (Mercer). I object to the gentleman withdrawing his motion.

CHAIRMAN SHANAHAN. The gentleman from Cook moves to reconsider the vote by which the section was adopted.

Mr. MILLER (Cook). And that is the purpose of having it recommitted?

Mr. KERRICK (McLean). We have acted on this matter favorably, and I see no reason why there should be a reconsideration of it, not even for the purpose of having it recommitted back to the committee from which it came for the purpose of further consideration with reference to what shall be done or not done with it.

CHAIRMAN SHANAHAN. The question is on the motion of the gentleman from Cook to reconsider.

(Motion lost.)

Mr. LINDLY (Bond). I move the committee do now rise, report progress and ask leave to sit again.

(Motion prevailed.)

(President Woodward presiding.)

Mr. SHANAHAN (Cook). Mr. President, the Committee on Legislative Department has met, rises and reports progress and recommends to the Convention that section thirty be recommitted to the Committee on Legislative Department.

(Report adopted.)

THE PRESIDENT. What is the further pleasure of the Convention?

Mr. TRAUTMANN (St. Clair). I move the Convention do now adjourn until ten o'clock Tuesday morning.

(Motion prevailed.)

Whereupon an adjournment was taken by the Convention to Tuesday, June 1, A. D. 1920, ten o'clock a. m.

TUESDAY, JUNE 1, 1920.**10:00 o'Clock A. M.**

The Convention met pursuant to adjournment.

The President in the chair.

Prayer by the Chaplain, the Reverend David McMeekin Conn, pastor First Presbyterian church, Sparta, Illinois.

THE PRESIDENT. The Journal of Wednesday, May 26, 1920, was placed on the desks of the delegates at the last session of the Convention and is now subject to correction. There being no corrections proposed, the Journal of Wednesday, May 26, 1920, will stand approved, and it is so ordered.

Whereupon the Convention proceeded upon the order of reports of standing committees, reports of select committees, introduction of proposals, first and second reading of proposals, motions and resolutions.

Mr. ELTING (McDonough). I have a petition by the members of the Presbyterian church at Kirkwood, Illinois, with reference to reading the Bible in the schools, and also a resolution adopted by a mass meeting of citizens at Carbondale, Illinois, on the same subject.

THE PRESIDENT. Without objection, the petitions offered by the delegate from McDonough will be referred to the Committee on Bill of Rights for consideration. There being no objection, it is so ordered.

Whereupon the Convention proceeded upon the order of general orders of the day.

THE PRESIDENT. The Convention will now resolve itself into the Committee of the Whole for the purpose of the consideration of matters on general orders. The Chair designates Delegate Shanahan of Cook as chairman of the Committee of the Whole.

(Chairman Shanahan presiding.)

CHAIRMAN SHANAHAN. The clerk will read the minutes of the last session of the Committee of the Whole.

(Minutes read by Secretary.)

CHAIRMAN SHANAHAN. No objections, the minutes will stand as read. The next order will be section thirty-three, and the clerk will read the section.

THE SECRETARY (reading). "Section 33. The payment of a part of compensation of any public officer or employee may be deferred and contributed to any death, disability or retirement fund as the whole or a part thereof, for the benefit of such officer or employee or his beneficiary, and such persons may have contractual rights only in such funds thus accumulated, as may be provided by law."

Mr. DAWES (Cook). This section has to do with the pensioning of public employees. It may surprise the delegates to this Convention to know that the first law establishing pensions for employees in the State of Illinois was passed in the year 1851. Since that time by successive legislation the State has committed itself fully to the policy of providing pensions for public employees. The extent to which this commitment has been made will perhaps surprise the delegates to this Convention. In 1916, owing to the confusion that had surrounded the whole question of pension legislation, a law was passed appointing a commission to study laws of the State and to make recommendations to the legislature for the correction of them. Again, in 1918, another law was passed and another commission appointed to continue the study and enlarge upon their recommendations. The personnel of the second commission, with one exception was the same as the first. These commissions have laboriously prepared full reports upon the entire pension system. The commission of 1916 and the commission of 1918. Of the five men who devoted a year's work to this study, one has removed from the State, one

owing to his absorption in other matters could not follow this investigation further, and the remaining three unite in recommending the adoption of this proposal; and in explaining it to the members of this Convention I should like to read briefly from the commission report of 1918, from the chapter written upon courts and pension systems, the legal aspect of this question, written by Professor Frederick Green of the University of Illinois:

"A statute which provides for a mere gift of public money to an individual or to a class, necessitating the taxation of some persons for the private benefit of others, is invalid. It has been said that it is not even an exercise of legislative power, within the meaning of the constitutional clauses which vest legislative power in the General Assembly. At any rate, it is well settled that because legislative power is granted for the general good, and because it is an unwarrantable thing to tax some person merely for the benefit of others, a person so taxed is deprived of property without due process of law in violation of the due process clauses of the State and Federal Constitution. Such a gift might also, according to circumstances, violate section twenty of Article IV of the Illinois Constitution, which provides that the State shall never in any manner give its credit in aid of any individual, section twenty-two against special laws granting exclusive privileges, and section nineteen against extra compensation after service rendered, as well as section twenty-three of Article V and eleven of Article IX forbidding the increase of an officer's salary during his term."

We have these successive constitutional limitations, the effect of which would seem to make any pension law unconstitutional and invalid. Nevertheless, it has been held—and I am reading the law on this question and not my own opinion:

"On the other hand, it is generally agreed that it is a valid exercise of governmental power to provide for the payment of pensions to public officers or employees who may in the future be disabled in service or retired after long service, and to their dependents upon their death. The expectation of such relief induces continued and faithful service, much as the payment of higher salaries might do; and in some respects it probably does so more effectively, justly and advantageously, since it combines the benefits which inure to the public and to the individual from insurance against individual distress with those arising from the payment of adequate public salaries. Thus the establishment of a pension fund for its employees is within the implied power of a private corporation, because it is a means of properly carrying on its business. Public service pensions are consequently not mere gratuities for the private benefit of the recipient, but are primarily in the interests of the public, and they are not obnoxious to any of the constitutional provisions referred to above."

In this and many other States of the Union, the courts of last resort have held that the legislatures have power to pass laws providing that pensions shall be paid to public officers and employees and that public moneys to finance such undertaking may be derived from various sources.

Some of these sources are taxes, general and special licenses, fees fines, and also parts of the salaries of the employees.

Now, in this State, the laws to which I have just referred almost invariably add something to the funds by deducting from the salaries of the employees. With respect to these deductions, the law of this State is as follows:

"A person who holds by appointment and not by contract a permanent position, provided for by law, whether it is an office or not, though entitled to salary accrued and due at the rate fixed by law is subject at any time to having his salary for the future reduced by proper public authority. There is no contract that he will continue to receive the same salary, nor does his occupancy of the position give him any right in the nature of property to continue to receive it. A reduction of his salary during his term does not impair the obligation of contract, nor deprive him of property without due process of law. A legislative direction that a sum equal to a percentage of his salary be deducted and paid into the pension fund is merely a reduction of his salary and the appropriation of an equivalent amount to the fund. It does not compel him to contribute to the fund or take his property. It is

therefore valid, though he has only a contingent expectation of interest in the funds, and may never become entitled to a pension."

Where the deduction is made from salaries of persons employed after the statute takes effect, it has been held that the contract of employment is to be interpreted, in view of the statute, as really being for a salary which is less than the nominal sum by the amount of the deduction provided for.

As we consider this matter, I would like to have you all bear constantly in mind that these pension systems are compulsory on the employee. There is no way for him to avoid submission to the system. Where the law requires the deduction from the salary, he must submit to that deduction, notwithstanding the fact that the courts have held that it is a reduction of the salary and that he has no vested rights and no individual rights in the ultimate disposition of that money.

I would like to have you remember also that where some of these laws are put into effect in the smaller towns, having perhaps not more than ten or a dozen members, in many instances the situation is found to be that the funds accumulated by the operation of the law are insufficient to make certain the payment of pensions fixed by the law.

Perhaps with a system of that kind for ten years the payments accruing out of the fund for pensions would be almost nothing. Then as the persons reach the age where they will enter into the retirement fund, the amount that would be required to pay pensions would eventually be fifty per cent of the amount that has been required to keep them on the salary roll, and of course, the first to get pensions would take all the funds that have been accumulated. There is a disregard of the individual private right of the man who has been compelled to suffer in the reduction of his salary for the maintenance of the system, without a protection of his own individual rights, in any event.

Contentions have been made that no public money should be devoted to such pensions on the ground that the benefits are of private character. In general, such contentions have been denied by the courts, the findings being that such pensions serve a public purpose and are therefore for public benefit, not private gain.

But in sustaining the obligations of law that part of the salaries of officers and employees should be withheld and applied to the payment of pensions, the courts were compelled to hold that such provisions are, in effect, mandates, which reduce the salaries affected to the degrees specified, and that no contracts for payments of the various amounts named by the salary appropriating bodies or officials exist.

Coupled with these decisions that no contracts concerning salaries exist are others to the effect that the employees concerned have no vested right in the pension fund to which their salaries are diverted, because the parts of salaries so diverted are public moneys, not private funds. In consequence of this legal situation, we have employees involuntarily deprived of part of the sums specified as compensation for services rendered and divested of any right of property in the accumulated funds into which their salaries are paid.

Many courts have held that employees have no vested rights in a pension fund until they shall have retired and become pensioners. While it may be well as a matter of public policy to leave the public employee in this position of liability to unexpected reduction of salary, it is unnecessary and highly undesirable to apply the doctrine to that part of salary which is required for pension purposes without vesting the employee with the right to obtain it at a definite or indefinite future time. The necessity for these peculiar and not altogether popular constructions, arises from the fact that the basic laws of the various states omit this important subject of pensions for civil employees and the courts have been forced to rule on the subject upon grounds of public policy.

This State embarked long ago upon the policy of providing for disabled and superannuated public employees and their natural dependents. Many persons are now dependent upon the system for their support; thousands of

others rely upon its maintenance for care when they can no longer serve the people.

This system, as a matter of simple moral obligation, should be maintained. We cannot shirk responsibility if any act of this Convention leads to the overthrow of this institution upon which employees have so long relied and under which they entered the public service and remained in it. There are seventy-seven thousand public employees in this State. Of these some sixty-seven thousand are under civil service rules or are public school teachers, and all of these except some five thousand come under pension systems. Of these some twenty thousand are in the City of Chicago, some twenty-six thousand are teachers outside of Chicago, and some twelve thousand are civil service employees outside of Chicago, and nine thousand outside of Chicago not under civil service laws.

The pension systems, some forty-six in number, are governed by sixteen different acts. Of these, nine acts apply to institutions in Chicago, and seven institutions outside of Chicago. The number of employees affected in Chicago is twenty-five thousand, and outside of Chicago, forty-one thousand.

In addition to the pension funds operating in Chicago, there are funds for firemen in twenty-two cities and for policemen in nineteen cities in the State. These cover about seven hundred firemen and about six hundred fifty policemen. Fifty cities have failed to comply with the law and establish firemen funds, and fifty-three have failed to comply concerning police funds.

Deductions from salaries in the cases of public school teachers range from five dollars per year during their earlier years of service, to thirty dollars per year during their later years. In the cases of the more poorly paid teachers and on the basis of salaries two years ago, this makes a deduction from salary as high as fifteen per cent of salary in some cases. In cases other than school teachers, deductions range from one per cent of salaries to as high as five and one-half per cent of salaries, depending on the acts governing the fund. The average deduction over the whole State is less than two per cent of salary. The contributions by the public range from moneys diverted from public sources, such as licenses, which are usually small amounts, to amounts in the neighborhood of fifteen per cent of salaries. The average contribution of the public for pension purposes exceeds five percent of salaries at the present time. The average combined contributions of employees and public at the present time exceed seven per cent of salaries. These contributions in every case but one, the park employees annuity and the benefit fund, are entirely inadequate to provide the pension stipulated in the acts under which they are governed. In each case, then, one or more of these three things must happen, first, pension payments must be reduced. Second, the contributions of the employees must be very greatly increased, or third, the ratio of contributions between employer and employee must be largely increased over the present ratio of approximately two and one-half to one. That is, upon the average in the maintenance of these systems, the State by taxation pays into the fund two and one-half times as much as the employees pay into the fund by deduction of salary.

To take more from the salaries of employees would be entirely unfair to them unless they are given an inalienable right to their contributions with interest in the event of their resignation or dismissal from service before coming eligible for pensions.

The only practicable solution, if it is held hereafter and always as it is now that the contributions of employees are public property as against private property, is to increase the ratio of contributions as between employer and employee from the present ratio of approximately two and one-half to one, to a ratio of perhaps as high as six to one. This might impose such a burden on the State as might result eventually in legislation killing all pensions.

The better solution of the problem is to increase the contributions of employees and hold such deductions as the employee's own property subject to withdrawal with interest in the event of resignation or dismissal from service, thus viewing the pension problem as a savings proposition on the part

of the employees during their active period convertible to an annuity for life when their efficiency begins to decline through age.

If the employees are to contribute as high as five and one-half per cent of salaries, then if these reductions are not to be viewed as their own private property, they will properly demand an increase of five and one-half per cent on their salaries to meet these contributions. Thus the contributions will become nominally contributions of employees but really contributions of the public. It is very much better for the public and for the employees themselves that employees look upon such contributions as savings for their own private benefit.

If contributions of the employees are to be regarded as the employees' own savings, then it is manifestly unfair to him that his savings should be dissipated in providing pensions for those who precede him on pensions. Such deductions should be allocated to the employee when made and reserved for him to be used for him when he leaves the service or retires on pension.

Also, the contributions of the public should not be viewed as gifts made for private benefits but as increases in salary for the employee who is giving faithful service to the public and will continue to do so. Public moneys cannot be used according to law or justice to provide gifts to private individuals. Payments can be justified only on the ground that the public is receiving an equivalent for them.

This equivalent, namely as increase of loyalty and consequent improved service can be obtained only by looking upon the contributions of the employees as deferred pay and allocating such contributions to him to be paid to him upon the performance of faithful and long continued service. This end cannot be attained by dumping the moneys into a general pot to which all employees in the group who have fulfilled certain requirements shall have access, for in this case he might regard the whole transaction as an enforced levying of the burden upon him for the benefit of others, the assumption of what is the State's burden, if any one's.

The modern conception of a pension system rejects the idea of gratuity; it does not consider the pension as a sum that is taken from one class of citizens and given to another; it establishes itself upon the conviction that a pension is given in consideration of services. The modern pension or annuity inevitably adheres to the relationship of employer to employee. In establishing such system the government seeks to improve the public service by facilitating the elimination from its active force of those who have lost their efficiency because of advancing age, accident or sickness; by encouraging the retention in the service of the best of its existing employees, by attracting to the service a higher grade of men; and by stimulating the morale of its employees. The system is to be justified by the interests of the government as an employer. It would, however, appear to be as well an advantage to the general public, since such a system tends to create stability of employment, and independence of employee, and reduce the need for public and private charity. It is extremely important that the State in establishing a pension system should establish it upon a sound and equitable basis, one fit to become a model for private pension systems. In theory all these pension systems are supported by the wage fund, and why they have been extended so as to include all employees, it will unquestionably be true that the contribution of the employer, as well as that of the employee, will in effect, be wages, the payment of which has been deferred. The current salaries then paid be adjusted to conform with the pension benefits assured, and the salary will be reduced to some extent on account of the expectation of a pension. There is this distinction between the system of pensions for public employees, and the system established by private corporations. The private corporation can enter into a contract which will be binding on the assets of that company for all time. The State cannot enter into a contract, and there is no one advocating that the State should enter into contractual relationship for the continuation of these pensions. The phraseology of this section is, "the payment of a part of the compensation of any public officer or employee may be deferred and contributed to any death, disability or retirement fund as

the whole or a part thereof, for the benefit of such officer or employee or his beneficiary, and such persons may have contracted rights only in such funds thus accumulated, as may be provided by law."

To express that same idea in another way, and I think the attorneys in this Convention will support me in this, they may not have contractual rights in anything else. Their contractual rights at any particular time are limited to the funds that have already been accumulated by retention of salaries, and by amounts which the State has paid. Is it not right that those funds thus set aside should be held in trusteeship for the protection of those for whom it was set aside? That is as far as this provision goes, and I cannot see that it would be just for it not to go so far as that. Now, for the proper maintenance upon a permanent basis of the pension fund, it is clearly advisable that funds should be accumulated and earning interest so as to provide adequately for the benefit promised. The first requirements for the safety and security of a fund of this kind is that the fund itself should be allocated as it is built up. The great danger that comes from the accumulation of funds is that the demand upon the funds is uncertain. Whenever money of the State is put aside for the accomplishment of definite purposes the amounts necessary to meet the respective purposes should be clearly designated and the funds held for that purpose. Then there is a minimum of danger that the fund should not be treated as a trusteeship for the benefit of those upon whose behalf the fund was created.

Mr. HULL (Cook). May I ask the gentleman a question? Under the South Park Police Pension Fund Law are not the contributions limited to the individuals whose salaries are applied in part to a pension system?

Mr. DAWES (Cook). Yes, to a certain extent, and the contributions to that fund are substantially such as would provide the benefits promised in the fund. It is undoubtedly the earnest approach to a sound pension fund.

Mr. HULL (Cook). Is it your understanding that that allocation of the funds in the South Park Police Pension Fund is not an allocation of the funds to the particular individual that will safeguard those individuals in respect to their pensions when they come to the age of retirement?

Mr. DAWES (Cook). It will more nearly do so than these other funds.

Mr. HULL (Cook). But you feel that the beneficiaries under that system have no legal right to the particular contributions which are made for them out of their salaries?

Mr. DAWES (Cook). I think they probably would have, under certain circumstances. I would like to add that, with respect to these employees, if they want to leave the service they can recover the money actually paid in; that their withdrawal rights will be protected in any event. I would like to see the legislature left free to establish laws of that kind.

Mr. HULL (Cook). They cannot do so?

Mr. DAWES (Cook). I have not got the particulars of that park fund before me.

Mr. HULL (Cook). The reason I am asking this question is, I know the effort was made in the South Park Police Pension Fund to do the things which you are suggesting ought to be done, to try to build up a reserve for the prospective beneficiary so that every pensioner when he retired from the service should have set aside for him under the law a particular fund to which he has made contributions, just as any proper insurance game would have a reserve benefit. What I am trying to find out is this: Is there any assurance that those employees will not get their pensions under this law because of the lack of any right to establish a contractual relationship in respect to the contributions which the employees have made, in respect also to the money set apart of the public's money to the same fund?

Mr. DAWES (Cook). Should any question be brought into court in connection with the South Park fund, the courts, under our law, following the decision of previous courts, would treat the entire fund as public money and undoubtedly they would distribute it according to the equity that would be established by the facts concerning that case, but if this section had been in the old Constitution, they would treat every dollar of the money

that had been contributed by way of deductions from salary as belonging to the individual who had made that contribution. The remaining portion of the funds they would have treated as a public fund to be distributed in the same manner that they would at the present time distribute the whole fund. That would be their legal duty.

Mr. HULL (Cook). In other words, you think if this provision were in the Constitution there would be greater assurance, do you, that policemen retiring from the South Park system as a petitioner would get the contributions which he had made, and would get also the benefits of the contributions made out of public money to his pension?

Mr. DAWES (Cook). There would be a greater certainty that he would get all the money that had been contributed by him through reduction of salary to the fund, and my belief is this: That after that confidence was established in the employees, that they would prefer and demand that they should make larger contributions themselves through deductions of salary for the maintenance of these funds.

Mr. HULL (Cook). You mean as a direct benefit to the system it would be possible to get the employees to make a larger contribution?

Mr. DAWES (Cook). I think they would want to make a larger contribution. In other words, the element of thrift, the element of savings, the personal element of sacrifice to establish protection against the hazards of old age would work with the pension systems and not be destroyed by the pension system.

Mr. FIFER (McLean). Mr. Chairman, I would like to ask the delegate a question or two.

Mr. DAWES (Cook). I would prefer to take up one more point and at that time I will be glad to answer any questions.

CHAIRMAN SHANAHAN. Proceed, Mr. Dawes.

Mr. DAWES (Cook). It may be said that a reserve system will require the accumulation of vast funds which may be improperly dissipated. The answer to this is that dissipation of funds can be prevented by the introduction of well known safeguards in the plan. In nearly all cases where improper use of public funds was charged against individuals, the improper use arose because of the presence of large funds which were only free surplus. Under the allocation plan, the only amounts of free surplus would be negligible amounts caused by slight variations in actual mortality over the expected tabular mortality. The great bulk of the funds would be allocated to individuals. I have tried to bring out that the introduction of a reserved system is not only advisable but necessary. But the practical question is how to bring this about.

I have already pointed out that the combined contributions of public and employees for pension purposes at the present time is in the neighborhood of seven per cent of salaries. It will require amounts very considerably in excess of seven per cent of salaries to provide pensions according to the provisions of the acts now in effect. Thus, the funds have been running behind each year and there is in effect at the present time a large accrued liability.

This accrued liability need give no especial concern in placing these funds on a reserve basis, if only it is not required that the change be brought about suddenly. The obvious and easy way to bring about the change is to reserve for each individual the amounts prescribed for such individual the amounts prescribed for such individual per year for all services rendered after the changed plan takes effect. This will gradually work all employees on to a reserved basis. In the meantime, that part of the pension allowed employees because of prior service rendered can be taken care of on a current cash disbursement basis, that is by levying taxes to meet accruing liabilities, as is now being done.

If the change is attempted suddenly, it can be brought about only by a bond issue or an increase in taxation for the year in which the change occurs so great that the practical effect would be that no fund could henceforth be put on a reserved basis.

The friend of the reserve plan of pension payments would deeply regret the inclusion in the Constitution of a clause that would have the effect practically of preventing legislative action in future looking toward a full reserve system.

The clause as proposed is in my judgment ideal. It first recognizes that deductions from salary are private property as distinguished from public property, thus allowing for a much larger deduction from current salaries with a corresponding reduction of public funds for pension purposes than could be made if the deductions from salary are looked upon as private property, and second, it leaves to the wisdom of future legislatures to determine if funds should be placed on a reserve basis or on a current cash distribution basis, and makes it possible for them to go to a reserve basis if they deem such a course wise, and third, it permits legislatures to change the acts of its predecessors at pleasure, but restrains them from disbursing funds then accumulated for purposes other than those for which they were accumulated. In other words, it requires them to treat funds accumulated by acts of their predecessors as trust funds, and my interpretation of this section is that the words "contractual rights therein" means no more than that all the funds thus collected and accumulated should be treated as trust funds for the benefit of those in whose behalf they were collected. I thank you. (Applause.)

Mr. FIFER (McLean). This proposition is to apply only to public officials of the State, of the counties, and of the different municipalities, is that true?

Mr. DAWES (Cook). Yes, any public officer or employee.

Mr. FIFER (McLean). But in Chicago it applies to those who have taken the civil service, isn't that true?

Mr. DAWES (Cook). Not exclusively.

Mr. FIFER (McLean). Now, it doesn't apply to the men who are running railroads and laboring in the field, does it?

Mr. DAWES (Cook). It applies to public employees.

Mr. FIFER (McLean). Just simply public employees?

Mr. DAWES (Cook). Yes.

Mr. FIFER (McLean). You have spoken here of the different pension provision running through our present statute, that they ought to be consolidated by the legislature and made all one system, I believe.

Mr. DAWES (Cook). The commission recommended that.

Mr. FIFER (McLean). Now, you seem to be familiar with the different pension systems of the State. Will you please tell what they are, for the enlightenment of this body and for my information. Just read the headlines of the provision, and tell me what they are which apply to the different cities in the State of different populations, they are all there together.

Mr. DAWES (Cook). Here is a digest of these laws. Firemen in cities of more than two hundred thousand inhabitants—

Mr. FIFER (McLean). What is that, now?

Mr. DAWES (Cook). That is Chicago.

Mr. FIFER (McLean). But what pension is that? They have pensions there for the employees of libraries and all policemen and all firemen, and then the general employees in the clerk's office and sheriff's office.

Mr. DAWES (Cook). This one was the fireman's fund.

Mr. FIFER (McLean). It applies to cities above two hundred fifty thousand inhabitants. What is the next one?

Mr. DAWES (Cook). In cities of not less than five thousand or more than two hundred thousand inhabitants.

Mr. FIFER (McLean). What pension is that?

Mr. DAWES (Cook). That is for the firemen in the smaller cities. Your city probably has that.

Mr. FIFER (McLean). What other?

Mr. DAWES (Cook). Policemen in cities of not less than two hundred thousand. Then another law for villages and towns of not less than one hundred thousand nor more than two hundred thousand.

Mr. FIFER (McLean). They have libraries there in Chicago?

Mr. DAWES (Cook). Oh, yes. Then in cities, villages and towns of not less than five thousand and not more than one hundred thousand, and then policemen employed by boards of park commissions, then municipal employees in Chicago, houses of correction.

Mr. FIFER (McLean). That would relate to all the clerks and all the public officers, wouldn't it?

Mr. DAWES (Cook). Yes. Then the teachers in the public schools.

Mr. FIFER (McLean). Teachers in the public schools in Chicago?

Mr. DAWES (Cook). Teachers in the public schools of Illinois.

Mr. FIFER (McLean). Then, I would like to ask you a question about the practical workings of these laws in the City of Chicago. I believe you stated that where two dollars was deducted from the official salary, two and one-half times that was put in by the public?

Mr. DAWES (Cook). On the average.

Mr. FIFER (McLean). That would be if they put in two dollars, the public would put in the treasury five dollars. Now, then, have you a fund of that kind in the city of Chicago?

Mr. DAWES (Cook). Yes.

Mr. FIFER (McLean). You have been getting that right along for some time, that is, taking two dollars out of the salary of the policemen, we will say, and the city is required, under the law, to put in five dollars? Now, have you accumulated a fund in Chicago under any pension laws?

Mr. DAWES (Cook). Yes. The amount would not be adequate, but in the case of municipal employees about a million and a half dollars. That would not signify very much with the present state of the fund.

Mr. FIFER (McLean). That does not amount to very much, does it?

Mr. DAWES (Cook). No.

Mr. FIFER (McLean). I will ask you a direct question, if the city of Chicago is in arrears something like thirty-nine millions of dollars?

Mr. DAWES (Cook). It is a little difficult to state this exactly.

Mr. FIFER (McLean). It was stated before the committee it was about thirty-nine million.

Mr. DAWES (Cook). Yes. If the present laws remain in force, if no more is paid into these funds hereafter than is now being paid in, then according to the probabilities of the duration of life, and of the mortality averages of that body of employees, the amount of money that would be required in a fund to meet all the obligations that will come due upon the men now in service eventually will bring it about that. The deficit in the policemen fund is possibly twenty-one million dollars, of the firemen's fund seven million dollars, and the teachers' fund, six million dollars, and the municipal employees fund about five million dollars. That would be perhaps forty million dollars, but would be a sum that might be distributed over thirty to forty years of taxation, and when you consider that the taxable property in the city of Chicago would be in the neighborhood of two billion dollars, I submit it is not an impossible burden for the city to meet.

Mr. FIFER (McLean). Well, if the city of Chicago had paid into this fund what it should have paid there would not have been a deficit of forty millions in the treasury, would there?

Mr. DAWES (Cook). The city of Chicago paid into the fund the exact amount that it was ordered to pay into the fund by the legislature of the State of Illinois. These laws were passed here and the city of Chicago had nothing to do except a ministerial duty of levying the taxes which were fixed by law here.

Mr. FIFER (McLean). How did that deficit come about? If you complied with the law, there could not have been any deficit of forty millions in the city of Chicago?

Mr. DAWES (Cook). Oh, quite so.

Mr. FIFER (McLean). How?

Mr. DAWES (Cook). Because the law stated that these men, when they go upon pensions, should receive forty per cent of their salaries, or fifty per cent of their salaries, and at the same time direct that the tax should be levied to accumulate a fund. Now, they did not order sufficient taxes to be levied to meet that.

Mr. FIFER (McLean). Could not the legislature have so provided?

Mr. DAWES (Cook). Yes.

Mr. FIFER (McLean). Well, what is the use, it is a legislative question, and not a constitutional question.

Mr. DAWES (Cook). Yes, it is a legislative question.

Mr. FIFER (McLean). Have any of these employees ever failed to get what they went after from the legislature?

Mr. DAWES (Cook). I do not think any employee has reached the age of retirement without a fund being found to pay the pension promised to him.

Mr. FIFER (McLean). You said in your judgment it would be a good thing for us to adopt this proposal and make it a part of the Constitution, and then the legislature follow that up by taking charge of the whole pension system of the State of Illinois, didn't you?

Mr. DAWES (Cook). Yes.

Mr. FIFER (McLean). And you still think so?

Mr. DAWES (Cook). Yes, I still think so.

Mr. FIFER (McLean). Well, that would make the state pay for the pension system of the City of Chicago, wouldn't it?

Mr. DAWES (Cook). I do not see, Governor, how that could be.

Mr. FIFER (McLean). If the state takes full charge of it, wipes all these pension systems that are in vogue in the different cities of the state having the different populations, the state takes charge of that, why would not the state be responsible?

Mr. DAWES (Cook). I think the state would levy the taxes upon these particular communities.

Mr. FIFER (McLean). Should the state take charge of it, who would pay into this fund the money on behalf of the people? Where would it come from?

Mr. DAWES (Cook). From special taxation.

Mr. FIFER (McLean). Out of general taxation. So then the community—where they have police, the counties would be called upon to pay their share of the pension fund, of the officials of my city of Bloomington, and of Springfield, and of Chicago, wouldn't they?

Mr. DAWES (Cook). I do not think so. I think the taxes would be levied upon those towns that received the service.

Mr. FIFER (McLean). The General Assembly could pay it out of the state treasury, couldn't they?

Mr. DAWES (Cook). I do not think they could, I think they would collect the funds by taxation in accordance with the benefit that is derived by the city.

Mr. FIFER (McLean). What object would there be in wiping out all local pension systems and consolidating them into one by the General Assembly if it would not be the very thing to which I refer, that is for the state to make good any deficit that might exist in that fund?

Mr. DAWES (Cook). The state has got laws requiring that policeman in all these small towns, who come under a pension system are to be supported by taxation upon the citizens in those towns.

Mr. FIFER (McLean). They have done that already.

Mr. DAWES (Cook). In a few cases, but in those cases they have pension systems consisting of ten or twelve or more men. Now it is impossible, it is mathematically impossible to establish a pension system covering such a small number of employees. The advantage, to answer your question, the advantages of creating a fund into which all taxes should

be paid would be that you would get the benefit of the mortality average of a large body and thereby enable the small bodies to participate in all the advantages of the pension system that would accrue to them if they happened to be members of a body of ten, fifteen or twenty thousand people. It is impossible for them to have the benefits unless there is some consolidation of the funds or management of the entire pension system. If it is right for employees who work in large numbers to have a pension, then it is right that those who work in small groups should have them, and that is what the Commission pointed out in this report, and this is the advantage that would accrue to the system and to the State in consolidating these pension systems.

Mr. FIFER (McLean). You said it would enable and be a greater advantage to some smaller cities to be in with the larger cities; if they had to raise their own taxes, bear their own financial burdens, that is, as relates to the pension system, how would they be benefited? Cannot the General Assembly provide for pensions for the smallest municipality in the State of Illinois?

Mr. DAWES (Cook). It can provide a pension system for a small group of men, yes.

Mr. FIFER (McLean). Couldn't they do it by legislation?

Mr. DAWES (Cook). It is mathematically impossible.

Mr. FIFER (McLean). You want to authorize them to do it.

Mr. DAWES (Cook). I want to give these men the opportunity of participating the same as the others in the benefits of a common fund.

Mr. FIFER (McLean). What benefits do you mean?

Mr. DAWES (Cook). In a participation in the general system.

Mr. FIFER (McLean). You mean money?

Mr. DAWES (Cook). Yes.

Mr. FIFER (McLean). I think of the small towns down State that would participate in the money; where is the money to come from?

Mr. DAWES (Cook). By taxation of the people of that city. I have not thought of the advantages between one town and another town.

Mr. FIFER (McLean). Isn't it true that you are more concerned about the interest of Chicago than you are of the little municipalities scattered over the State of Illinois?

Mr. DAWES (Cook). Governor, there are 41,000 pensioners in the State and 25,000 of them in the City of Chicago.

Mr. FIFER (McLean). Those are mostly school teachers.

Mr. DAWES (Cook). They are all right.

Mr. FIFER (McLean). We have our policemen, in my city of Bloomington, and we are not in arrears, we have had no trouble there whatever. It has all worked smoothly.

Mr. DAWES (Cook). You are probably more in arrears than we are, proportionately.

Mr. FIFER (McLean). Don't you think at the bottom of this pension system it is a great vice, it is calculated to create in this country an office-holding class of people, which is always distasteful to a free people?

Mr. DAWES (Cook). I think the general discussion as to whether pensions are a social benefit or not is a question that the State of Illinois has left long behind it. As I stated, the great majority of the corporations use it. The State of Illinois has been committed to this policy for sixty-five or seventy years. Now, then, since this policy is the fixed policy of the State, I want to see it established upon such a basis that it will be just to those who are forced to come under its operation, and conducted in such a manner that it will not bring dishonor or disgrace to the state.

Mr. FIFER (McLean). I beg your pardon, that does not quite answer my question. My question is, don't you think that any pension system such as you have proposed is calculated to take away all incentive to frugality and economy and take away from this class of people their natural self reliance that every man ought to have?

Mr. DAWES (Cook). I think that if the right of these individuals in the amounts that have been taken from them is recognized that it is itself

an exercise of thrift and sacrifice as a protection against the wants of old age.

Mr. FIFER (McLean). When a man is working and knows that his old age will be taken care of and his children, too, because this provides for taking care of his children, now don't you think that takes away all stimulus to economy?

Mr. DAWES (Cook). This section that I am proposing here requires that these public employees should make this saving. Don't you approve of that? That this money of theirs should be marked as their money; it is their savings; every month they make that sacrifice.

Mr. FIFER (McLean). You say to a man, "You cannot be entrusted with your salary." The theory is, that two dollars is taken out of his salary and five dollars out of the public treasury, which is put in the public treasury by taxation. Now, is not the tendency to treat these people as incapable of taking care of themselves? It is a little like a man raising his boy—he will not allow him to go swimming for fear he will be drowned, or go hunting for fear he will be killed; he raises him in a band-box, but when he gets him raised he has got nothing.

Mr. DAWES (Cook). I feel that every delegate to this Convention is as well able to answer a question of that kind as I am. I want to say this, they must judge of conditions as they exist today.

Mr. FIFER (McLean). I ask that question for the benefit of the others. Now, one more question: Do you know of any law or any constitutional provision that would prevent the legislature from creating the contractual relations between these public officers in the several cities where the law is in force?

Mr. DAWES (Cook). Please repeat that, Governor; I failed to catch it all.

Mr. FIFER (McLean.) You put into the provision that the legislature may provide for contractual relations. What is there to prevent the legislature from creating contractual relations if they want to? The Supreme Court said in the opinion handed down by Justice Dunn, of my own district, that they had not done it; but cannot they do it?

Mr. DAWES (Cook). This section distinctly states that such persons may have contractual rights only in such fund as is accumulated. Now, another way to state this: that they shall not have contractual rights. So far as this section is concerned, it seems to deny the right to the legislature to go into a contract for the maintenance and continuance to an indefinite future time of this system of pensions, whether we put it this way or not. One legislature cannot bind another legislature, and the answer to the question is, no.

Mr. FIFER (McLean). You are approaching a very intricate question of law there, whether the expression of one thing excludes other things. I do not think so; I do not think other means would be excluded; but you know of no reason why the General Assembly could not do just what you propose there by this provision, do you?

Mr. DAWES (Cook). What is that?

Mr. FIFER (McLean). Why, create a contractual relation.

Mr. DAWES (Cook). I know if this thing is passed they would have to treat those funds as trust funds. That is exactly the contractual relation I want to see established with respect to those funds.

Mr. FIFER (McLean). Has the city of Chicago ever appropriated to its own use any of the funds they took from the wages or salaries of these public officials?

Mr. DAWES (Cook). No; if we are twenty or thirty million dollars in default, as compared with the accrued liabilities, they have paid pensions to those who were on the pension roll earlier.

Mr. FIFER (McLean). Do I understand you want this constitutional provision simply to compel Chicago to make good that forty million dollars deficit.

Mr. DAWES (Cook). No; I want to compel the State when it passes legislation to recognize equities in the State and in Chicago.

Mr. FIFER (McLean). Don't you think if you made that kind of constitution that you would have one that the libraries would hardly contain?

Mr. DAWES (Cook). I hardly think so.

Mr. FIFER (McLean). If you wanted in every instance to make the General Assembly do what they ought to do, you do not deny that the legislature now has the power to do just what you propose there?

Mr. DAWES (Cook). I deny that most emphatically.

Mr. FIFER (McLean). They passed these pension laws and you have justified it; you have read one side of what the courts have said. There is another side as you doubtless are familiar. Some courts have set their faces sternly against it, in some states.

Mr. DAWES (Cook). I think no one will find anything in the law of Illinois in conflict with what I have said, namely, that money that has been taken by law out of the salaries of these employees of the State is treated as public funds and not in any way charged with any obligation to the individual from whom it is taken.

Mr. FIFER (McLean). This has been in working order in Chicago for years, hasn't it?

Mr. DAWES (Cook). Yes.

Mr. FIFER (McLean). Do you know of any money that has been taken out of the wages of employees that has been appropriated by the authorities in Chicago?

Mr. DAWES (Cook). No, I do not know of any misappropriation.

Mr. FIFER (McLean). What do you expect to remedy by this provision?

Mr. DAWES (Cook). To secure those amounts which we speak of as being necessary to make this fund mathematically equal to all the demands that in the future would be made upon it. I would like to see the promises the individual. These funds under present conditions will be devoted to the first on the pension rolls. I think a part of it should be kept for those who follow after.

Mr. FIFER (McLean). Is it not in the minds of those who have come, mostly from your city, in regard to this pension matter, to wipe out all these local pension provisions in the several municipalities and consolidate it into one?

Mr. DAWES (Cook). The idea of the consolidation is to consolidate the risks.

Mr. FIFER (McLean). Then has not there been talk further that the state out of its own treasury will make good all the forty million dollars deficit?

Mr. DAWES (Cook). Not at all.

Mr. FIFER (McLean). You admit under this provision, they could do it?

Mr. DAWES (Cook). No, I have not admitted that.

Mr. KERRICK (McLean). I would like to ask the delegate from Cook a question: is there anything in the present Constitution which would prevent the City of Chicago, or the City of Lincoln, or any other municipality in which there is one or more of these pension systems, from taxing themselves to make whatever deficit there may now be?

Mr. DAWES (Cook). There is nothing that I know of.

Mr. KERRICK (McLean). What is the need of any change in the Constitution unless it is expected that the state as a whole will in some way and at some time take care of these deficits? For instance, Chicago you say is substantially forty million dollars short and will have to provide sufficient funds to pay what time has demonstrated is necessary to be paid, the pension provided by statute. What is there in the present Constitution that will prevent Chicago taking its own affairs and making up by taxation

the sum which is necessary, make good its pension loss? Is there anything in the Constitution to prevent that, or any other city doing that?

Mr. DAWES (Cook). I do not know that there is anything in the Constitution to prevent it.

Mr. KERRICK (McLean). Is not that the proper way to do it, if they are in default acting under the law made by the legislature of this State, if they have not provided sufficient money to pay the protection at the rate that the law of the State provides, is it not incumbent upon them for their own people, for their own affairs to make good, just as it would be if Bloomington had become in default on the same line, or any other municipality?

Mr. DAWES (Cook). Where we have a lack of funds such as this, then it rests upon the people of that taxation district to raise those funds. Let us suppose now the for the sake of argument it would require fourteen or fifteen per cent of the salary list to make good that fund, that is all carefully computed and that it is seen that fifteen per cent of that salary fund would restore the fund within say ten years. There then comes a question of the raising of the funds, I mean of the burden of making that fund good. Suppose the people under general taxation could stand half of it, and that in order to make it good it would be necessary to assess upon the employees the other half. Now, all we ask, all that is asked by this section is that in asking the employees to pay their portion of that fund we should be relieved of the present burden which is this, that the minute they pay it, it becomes public money in which they have no right or expectation whatever. If you pass this, then that money is their money and under any circumstances each individual at some time will get back that money with interest, whether he leaves the service, whether he remains or goes upon the retirement pension or dies in the service, that money will always come back to him. That makes it easier to get the consent and the good will of the employees in having them contribute to wipe out this deficit. I hope I make myself clear, because there is a distinction there.

Mr. KERRICK (McLean). I take it from that that your expectation, as the result of the operation of this provision would be to so encourage employees to add to the amount they contribute that there would be in the fund as a whole sufficient to pay pensions at the rate provided by law, which is simply a hope and expectation of the way in which this would work out, and based on the belief that the employees themselves will so increase this fund as they will get back their money, each one according to his contribution. Am I right about that, and if that fails and the State undertakes this matter in a contractual relation, under the broad word "contractual", that if the State were to take this in hand and a community like Chicago or Bloomington would take care of its pensioners, because they are local, then under this contractual relation, might it not be that the State would be required to make a fund of sufficient amount to comply with the statutes which the State has made concerning the rate of pension to be paid to pensioners in this State? Isn't there a hope that aside from the disposition on the part of pensioners to contribute sufficiently in such amounts that the aggregate sum shall repay them what the law says they shall have under certain conditions, if that should fail, isn't there the thought that under this section thirty-three the State would be a sort of father and mother over the whole thing and supply the fund so each pensioner should get the entire amount which he would be entitled to under the provision of law as made by the legislature? Isn't there a double expectation, not merely that the pensioners themselves shall pay their pensions, but failing to do so, the State shall pay?

Mr. DAWES (Cook). I have not heard any such expression. That is not my expectation or hope, but on the contrary when I read this proposal I read a limitation upon the legislature to do that very thing. Their rights of contract with respect to those matters are limited to funds actually accumulated. I do not know how it could be made more clear.

Mr. CUTTING (Cook). I would like to ask just one question: You say there is a contractual relation by which the individual who contributes has a right to the funds by him contributed. Do you mean he has any right provided he does not arrive at the age of retirement to anything other than which he himself has contributed? If he arrives at the age of retirement he is entitled to what he has contributed in addition thereto, is that right?

Mr. DAWES (Cook). Yes.

Mr. CUTTING (Cook). But if he leaves the employment and retires before the maturity of the pension, then he is entitled only to that portion of the fund which he himself has contributed?

Mr. DAWES (Cook). Yes.

Mr. CUTTING (Cook). The language here, I think, is ambiguous, and might well mean he would be entitled to both, perhaps, if he left before the maturity of the pension.

Mr. DAWES (Cook). Don't you think the Legislature should be left some freedom in matters of that kind?

Mr. CUTTING (Cook). Exactly, if that is the idea, I agree with you.

Mr. MIGHELL (Kane). Certainly there are many men in this State who believe that public officers should be paid full and proper compensation from month to month for their services and that the pension system, except as it applies to soldiers, is the wrong system. However, this State is committed to the other policy. For a great many years we have had pension systems for public employees, and I do not arise on this occasion to try to change the policy of the State in regard to that, but I do most strenuously object to involving the State of Illinois or the municipalities in the State in the heavy financial obligations which will be involved if we establish contractual rights in funds when those funds are not adequate. Now, I as one of the sub-committee on this proposition in the legislative committee suggested in connection with another member of that committee that the word "only" be put in there to limit the contractual relation to the funds which were actually contributed by the particular individual who was the employee, or in the funds set aside by the State for that individual. I do not question the sincerity of any man who disagrees with me in these matters, because I have only lately come to this conclusion, and that is, that the word "only" does not accomplish anything like what I thought it would accomplish. I thought it was confined within commas in such a manner that the State could not lose anything except that which was contributed by the individual, and it seems fair and distinct to me if they contributed and did not get their pensions, they should have returned to them that which they did contribute. The whole situation is right here: Is the fund built on fundamental principles, is it actuarially sound? If it is, a proposal of this kind, in my opinion, would not do any harm, but if it is not actuarially sound, look what will happen. This enormous sum contributed from months to months is to be put into a common pot, and then money paid to the old men and the old schoolteachers who draw it first, and in the course of years every single one of the funds will burst; every one is unsound with the exception of the one referred to by Senator Hull, but money is going to be given and still the contractual rights exist, while each one can come in and ask for all he contributed and all that was set aside for him individually. What is the result? Millions upon millions of dollars will be paid out by the municipalities and the State of Illinois in addition to all the moneys that they ought to pay out, wrongfully upon an adequate basis. The whole situation, men, is whether or not your system is adequate. If it is adequate, it is all right; if not, it involves the State in millions and millions of dollars. It will be one hundred million dollars behind in a short time. Let me read some of the things in connection with the commissioners' report so as to convince you that these funds are not adequate. Reading from the last Commission report, as made on page seven, we have fifteen laws and some forty odd funds under the last law, which were established by the last legislature. Only one

fund is on an adequate basis, and that is the park employees', and there would be no harm in establishing contractual obligations so that the public employees could have rights in this fund. Let me read you the names of these laws: Chicago Policemen, 1874. Chicago Firemen, 1874. Policemen in Cities of 5,000 to 100,000, 1874; Policemen in Cities of 100,000 to 200,000, 1874. Firemen in Cities of 5,000 to 200,000, 1874. Chicago Teachers, 1895. Chicago Public School Employees, 1895. Chicago Public Library Employees, 1905. Chicago Municipal Employees, 1911. Chicago House of Correction Employees, 1911. Chicago Park Policemen, 1911, which is the fund referred to by Senator Hull, and which everybody believes is actuarially sound.

This is reading from page thirteen:

"The insolvency of the Pension Fund under the fifteen pension laws of Illinois for teachers, policemen, firemen and other civil service employees, is a matter of grave concern. These acts have been built up blindly. The liabilities under them have crept up almost imperceptibly, as the service given by the public as an employer has expanded. Through these laws the State and many of its municipalities today are in effect in the position of holding out dishonest promises to the men and women in the employ of the public. On the basis of lack of provision to finance pensions promised, the major existing funds have deficiencies running up into the millions.

Even when credit is given for the perpetual continuation of receipts from taxation as at present, the deficit of the policemen's fund of Chicago is twenty-one million dollars, and that of the firemen's fund seven million dollars.

When present employees and present pensioners are considered, the deficit on the Chicago Teachers' Fund is about six million, and that of the Municipal Employees about five million.

The statewide Public Schoolteachers' Fund similarly is headed in the direction of a large deficit. The police and fire funds of the cities outside of Chicago are too small to be sound financially.

Under existing plans, the funds contributed by the employees and by the public on behalf of an employee are not allocated to be held for the benefit of such employee upon his fulfillment of the conditions entitling him to a pension. The contributions are thrown together without regard to the equities of the individual. This way of financing a pension system whose promises run many years into the future, is unsafe from the standpoint of security and solvency of the system. Thus it is not only the present financial condition of the fund that should be considered, but the fact that the fundamentals of the plan of financing are unsound from the standpoint of keeping the funds solvent, even if they should be put into a solvent condition at a particular time."

Let me read you what further the Commission said in regard to the particular divisions of these funds, reading from the bottom of page six:

"Each either lacks provision or has inadequate provision for accumulating, while service is being rendered, reserve funds with which to meet the pension obligations when they mature. All lack provision whereby the individual employee required to contribute to a pension system, has from the start a definite amount to his credit, exclusively his own, which is certain not only to grow steadily from month to month, but also to be sufficient at the proper time to provide the promised annuity. All of the present laws are open to the abuse of diversion of contributions from the purposes for which they were originally intended."

Now, let me read what our Governor said, on page four:

"A Commission was created by your Honorable Body to investigate and report upon the subject of pensions for certain classes of public employees.

"This Commission has made a very exhaustive study of the subject. I will submit its full report to you later. Among other things, however, that Commission has found that nearly all, if not all, of the several pension funds created by the different municipalities of the state, as well as

by the State itself, are hopelessly insolvent. These funds were established with wholly inadequate provisions for their future. The contributions made by the employees and by the municipalities or state, were altogether insufficient to meet the obligations which the municipalities and the state have incurred, morally at least.

"I recommend that Your Honorable Body give its fullest consideration to this entire subject. Either these pension systems should be discontinued altogether, or the state should require that they be based upon sound, actuarial principles."

I hope you will not vote on this thing quickly. I hope you will carefully consider it, because it is important. I do not pretend to know a great deal about pensions, but I want to say this, I do not know enough to know for sure how everything will work out, how the Supreme Court will interpret contractual relations, or how the word "only" will apply. If you have a good Constitution, stick to the old Constitution, unless you know what you are doing.

Mr. HULL (Cook). I want to read this last line, and try to find out why you say this: "and such persons may have contractual rights only in such funds thus accumulated." Is not that a limitation of the contractual rights which such persons may have in the funds actually accumulated?

Mr. MIGHELL (Kane). Well, my friend, in the first place the fund might be accumulated and then diverted. It will be diverted under a system that is not actuarially sound, to those of the older classes.

Mr. HULL (Cook). Isn't it one of the first conditions for the protection of a large fund that there should be individuals who have contractual relations in respect to those funds who are thus enabled to go into court and protect the funds against diversion?

Mr. MIGHELL (Kane). I think you are right. I believe the money should be set aside for that man, and for each man that contributes, and I think the only safety is in having a fund for the individual.

Mr. HULL (Cook). He has no contractual right to go into Court and say, "You shall not divert the fund which is allocated to me to any other use." How are you going to protect the fund? It is because, by providing that the individual beneficiary may have a contractual right with respect to the accumulations allocated to him, he is able to protect the accumulated fund, and it is for the very purpose, I take it, of providing a safeguard in respect to those accumulations that this provision is inserted there.

Mr. MIGHELL (Kane). Do you think it does it?

Mr. HULL (Cook). Yes, I should think it did.

Mr. MIGHELL (Kane). I do not think it does. I am opposed to the idea.

Mr. BARR (Will). Mr. Chairman and members of the Convention: I was a member of the Sub-Committee appointed by the Committee on Legislative Department, to which the matter of drafting what was thought safe to provide in the Constitution was referred. Delegate Morris, from Cook, and Delegate Mighell, from Kane, were the other members of that Committee. We spent a great deal of time with two thoughts in mind, first to protect the rights of those who were pensioners, in so far as they might be protected by law, and by the Constitution; and second, to protect the rights of the taxpayers so that there might never be a time when either the municipalities or the counties of this state might enter into contracts for pensions beyond the funds that had been created for the purpose of taking care of those pensions, whether that fund was arrived at from the salaries or deductions from salaries of employees, or which had been already contributed by the municipalities or by the state.

I want to suggest with reference to the discussion and work that was carried on by that Sub-Committee, that there was this difference between the majority and the minority members of the Sub-Committee, and that was, that the view of the minority member of the Sub-Committee was that there should be provided in the Constitution a provision that these pensioners should have a contractual right in the fund that was accumulated

for pension purposes, but there should be provided further in the Constitution a provision that the part which the municipality or the state or the county was to appropriate to keeping up of this pension funds should be provided in the Constitution, should be set aside and paid into that fund, according to my recollection, every month. There was no difference in the minds of the members of this Sub-Committee that there should be provided in the Constitution a provision that would give these pensioners a contractual interest in this fund, but there was simply the difference of opinion as to whether or not the funds that was paid in from the taxing bodies should be paid into the fund each month or each sixty days, whatever was suggested at that time, and it was the opinion of the majority of the Sub-Committee that to require the building up of this great fund in every city and county and by the state itself, would perhaps appear to be the erecting of such an unusual or tremendous sum of money that would subject it to the danger of its being used for other purposes, and so forth, that it seemed unwise to provide in the Constitution that that be done, but at the same time in the judgment of the majority members of the Sub-Committee, that it was the wiser course to provide that the employees should have a contractual right in this fund after it had been created, and we thought we used language that limited it to that fund as created, and the legislature then might be privileged under the Constitution to provide the method in which this should be accomplished, including the amount of the deduction from the salaries of the employees and the amount that might be paid out of the public taxes, and the amount that might accumulate from various gifts, legacies, and so forth.

Mr. FIFER (McLean). It is your view that the legislature cannot do that even though this becomes law?

Mr. BARR (Will). Yes, we think we can.

Mr. FIFER (McLean). I do not think so.

Mr. BARR (Will). If you are right about it, then the necessity of providing in the Constitution the authority on the part of taxing bodies to create this contractual relation is not necessary, but the decision of the Courts seem to indicate to the contrary.

Mr. FIFER (McLean). Justice Dunn says they have not done it.

Mr. BARR (Will). I might say this, Governor, I have not made an investigation of the legal side of this question. I took the opinion of the lawyers who had looked into the matter, and who reported to me that such was the effect of the decisions of the United States Supreme Court and of the Supreme Court of this State. I want to refer to the case of Pennie vs. Ries, reported in the 132d United States Reports. The opinion of the court is on page 469. As I understand the situation exists at the present time with reference to the rights of pensioners, I mean all State, city and county pensioners, all public pensioners of this State, our Supreme Court has held, I think, that the legislature has the power to provide for pension fund, and they have done so. I want to further suggest that this is not a scheme to hand to the legislature the power to create provisions for pensions that it has not heretofore had. The Chicago Firemen's Pension, Police Pension and all other pension funds and provisions for pensions in the State of Illinois are created by the legislature of this State, and if when they are all, and they are, centralized into one big pension bill or law, it will simply be uniting all the various pension plans and not assuming by the legislature of a power which they have not already assumed. In other words, direction as to the carrying out of the various pension provisions as they now exist, both as to schoolteachers and other employees, is by virtue of the acts of the legislature and not by virtue of some local law established by the municipality.

As to the present situation of the pensioners of this State, I desire to call to the attention of the delegates just how the pensioners stand at this time. That applies to the school teachers throughout the State and the firemen and policemen of Chicago and the various other pensioners in all departments. The Supreme Court has held, as suggested by the delegate from Cook, that the legislature has the power and has already exercised

that power, providing that there shall be deducted from the salary of the firemen, or the policemen or the school teacher and other employees of the various municipalities of this State, a certain part of their salary each month, and our Supreme Court has held that when that money has been deducted from the salary of those employees, it ceased to be, or never was, the property of the employees, the employees of the City of Chicago, of the Park Board or of the State of Illinois, that by reason of the fact that the salary was not paid to that employee. The amount that was deducted ceased to be any unpaid salary of the employee, but it was money of the municipality or State or county which had held it back, and that the city of Chicago and the State of Illinois, and every other municipality which makes provision for a pension fund, could treat that money that had been taken from these salaries in any way it pleased, that it is a public fund in which the public employee has absolutely no interest whatever, and that the legislature of this State might tomorrow wipe out the entire pension fund in the city of Chicago and in the State of Illinois, and in every other section of the State, and use those funds for any purpose whatsoever, and the employee has no right in those funds and has no remedy in any way whatsoever under the law.

Now, it occurred to us that there should be some provision in this Constitution that would enable the legislature to make provision whereby these persons who had spent years of service for a less salary than they would otherwise receive, in some instances five dollars a month, and in some instances two dollars a month deducted from their salary for a specific purpose, that those employees should not be in a position where the employing body at any time it might see fit could take this entire fund and appropriate it for any purpose that it deem desirable, as well as that part that might have been set aside from time to time by the taxing body to go with the amount that had been deducted from the wages, and our reason for believing that was the situation were supported by the Supreme Court of the United States by the Supreme Court of this State.

I desire to read just a few words in the case of *Pennie vs. Ries*, in which Mr. Justice Field delivered the opinion of the court, page 469, 132d United States Supreme Court Reports:

"Mr. Justice Field delivered the opinion of the court:

"It was contended in the court below that this latter act of March, 1889, violated that provision of the Constitution of the United States, and of this State, which declares that no person shall be deprived of his property without due process of law."

I also read from page 471 of the same case.

"Being a fund raised in that way, it was entirely at the disposal of the government until, by the happening of one of the events stated—the resignation, dismissal, or death of the officer—his right to the specific sum promised became vested in the officer or his representative. It requires no argument or citation of authorities to show that in making a disposition of a fund of that character, previous to the happening of one of the events mentioned, the State impaired no absolute right of property in the police officer. The direction of the State, that the fund should be one for the benefit of the police officer or his representative, under certain conditions, was subject to change or revocation at any time, at the will of the legislature. There was no contract on the part of the State that its disposition should always continue as originally provided. Until that particular event should happen upon which the money or a part of it was to be paid, there was no vested right in the officer to such payment. His interest in the fund was, until then, a mere expectancy created by the law and liable to be revoked or destroyed by the same authority. The law of April 1, 1878, having been repealed before the death of the interestate, his expectancy became impossible of realization; the money which was to pay the amount claimed to have been previously transferred and mingled with another fund and was no longer subject to the provisions of that act. Such being the nature of the interstate's interest in the fund provided by the law of 1878, there

was no right of property in him of which he or his representative has been deprived."

I will read briefly from the case of Hughes vs. Traeger, as reported in the 264 Illinois Supreme Court Reports:

Mr. Justice Dunn delivered the opinion of the court:

The circuit court of Cook county sustained a demurrer to a bill in chancery and dismissed it for want of equity. A constitutional question being involved, the complainant has sued out a writ of error from this court.

The object of the bill was to have declared unconstitutional the act of the General Assembly approved May 31, 1911, providing for the formation and disbursement of a pension fund for civil service employees.

I will read from page 616, of the same case:

The effect of the law was to reduce the salary which the complainant would receive, two dollars a month, but he was not thereby deprived of his property, for he had no property in his unearned salary. It is true that the complainant acquires no vested interest in the fund created by the statute, for there is no contract by the State or the city that the disposition of the fund may not be changed in the future, and in such event the complainant's expectancy might be destroyed. The two dollars a month deducted from the pay of each employee does not become the property of such employee and cannot be controlled or disposed of by him. The fund created by these deductions remains subject to the disposition of the legislature, and the employees cannot prevent its appropriation in another way than that designated by the statute. It is not their property, and the statute does not amount to a contract by the State to use it in the manner provided by the statute. A change in the disposition of the fund would not, however, violate any right of the complainant, for until the happening of the event designated by the statute for its distribution he has no vested right in the fund, but only an expectancy created by the law, which the law may revoke or destroy.

I did not expect to present this phase of the matter to the Convention, but the other member of the sub-committee upon whom it was expected that responsibility would rest is not here this morning, and therefore I have not exhausted the authorities on that subject, but I am simply repeating the information that I have received from Judge Hays, who has given this matter a great deal of study, that our courts have held that under our present Constitution a contracted relation may not be enforced or established by a provision of a law enacted under the present Constitution. If I am wrong about it, if that is not true, there would be some question as to the necessity of this part of this provision in the Constitution.

One of the delegates has handed me this suggestion, which appears to me to be apropos on this question, that it would violate a provision prohibiting increase of salary, and also a provision prohibiting diverting of public funds to private use. I think there is scarcely a question but what any lawyer would consider it a violation of that provision of the Constitution, which prohibits the diverting of public funds to private use, as the Supreme Court of this State has held that any funds that have been accumulated by deducting them from the salaries of employees become public funds, and therefore to enter into a contractual relation providing for the payment of those funds to pensioners would, it seems to me, be diverting public funds to a private use. Now, gentlemen of the Convention, it seems to the majority members of the sub-committee that it would be unfortunate, inequitable and unfair to leave this great number of pensioners in this State, and the question has arisen here as to whether or not the pensions of public employees are proper or improper, or whether a pension system is desirable or undesirable, as to whether or not any pension system should have ever been suggested in this State; that is a thing that is behind us. This State has recognized the principle of pensions. There are thousands of men in this State and there are thousands of women in

this State who have continued in the public employ as teachers, as firemen, as policemen and various other employees, with an understanding that there was a pension system, and with the belief that they were justified in assuming that some day when the condition arose and when the circumstances arrived, that they would be entitled and that they would receive that pension that is provided for them in the Act of the legislature that affects their particular employment. I have a particular instance which, though personal, I am going to repeat, simply to indicate the way in which this matter is viewed in the minds of many of these employees. A number of years ago I was State's attorney of our county, and after I was installed in that office, I desired to have an officer do work connected with my office. I went to one of the police officers in the city of Joliet, whose reputation for integrity and good service was excellent, and asked him to accept the position in the office of the State's attorney, to do the special work that came within the duties of that office. I offered him a considerable amount of money more per month than he was receiving as an officer of the city of Joliet. He told me in reply to that invitation that he would be very glad indeed to accept my offer, but he said to me, "I have been in the service of the city of Joliet for seventeen years, and if I serve three years longer, I will be entitled to a pension under the Pension Laws of the State of Illinois that apply to the city of Joliet." He said, "Under those circumstances, I would prefer to carry out or continue for three or four years as a police officer in the city of Joliet, even at a salary that is less, even under conditions which would not be as pleasant, rather than to resign and go to work that is more pleasant at a larger salary and thus deprive myself of the opportunity of receiving this pension when the time comes and the condition arises that entitles me to a pension." That was in 1908, and this same officer in the city of Joliet has not received a single dollar from the pension fund, but it indicates that which is in the mind of the employee, that he is going to receive a certain pension when the time comes or the event occurs under the law which entitles him to that pension.

Now, it seems to me, gentlemen of the Convention, that this Convention should be willing to do this much, to provide in this Constitution the provision that we have written but which we think goes this far, which enables the legislature of this State to provide by law that the municipality of Joliet, or Aurora, or the municipality of Bloomington, of Chicago, or the state itself, may with reference to its employees, the teachers and the policemen and the firemen, make a contract with them for a certain salary and deduct from that salary a certain amount per month, and say to them "When the event occurs, as provided in this Pension Law, that entitles you to a pension by virtue of your lengthy service, or some other fund, then you will receive the pension as provided in this law, or at least you will receive that part of the fund that exists at the same time the payments are due," as the legislature may provide will be his or her proportionate share of that fund, assuming that the Legislature may in the meantime wipe out pensions in so far as they affect any other employees who did not come into the service during the time the Pension Law is in force.

Let me suggest, gentlemen of the Convention, that it is not the intention of this provision of the Constitution, nor is it subject to that construction, I think, that the Legislature may not at any time wipe out a pension law, or all pension laws, but the wiping out of that pension law would not deprive those who had come in under the pension law as it existed from being entitled to their rights under that pension law. In other words, all it does is to enable the Legislature to so provide by law that the pension fund may not be wiped out of existence and used for some other purpose, and leave those who came in under that service high and dry without any remedy under the law whatsoever.

I will be very glad to answer any questions that I can answer. I assume there will be a lot asked that I cannot answer.

Mr. FIFER (McLean). Is there any trouble in your payments?

Mr. BARR (Will). I understand there has been no trouble with the payments of pensions anywhere. That the deficit is a deficit in book-keeping, not that there has ever been any person who has asked for his pension in the city of Chicago or in any of the departments that has not received that pension as provided by law, but the effect of the suggestion, if there be a lack of funds to take care of these pensions, is that in the view of the actuaries, there is not sufficient funds on hand to insure the paying out of all these pensions as the payments may mature, but as a matter of fact, as I understand it, all the employees in any part of the state entitled to them have been paid their pensions as they have matured.

Mr. HULL (Cook). But as a matter of fact, the tax levy with which to pay these accrued obligations has had to be raised on several occasions in the last few years, so unless the tax rates had been raised, there would have been a default in those obligations, and it seems certain that the tax rates will have to be raised still further as the years go by to take care of some of those obligations.

Mr. BARR (Will). I think that is true. May I refer to this section, and then I will stop. I want to read section thirty-three, to see whether or not our view is supported by the analysis of the language contained in that section:

"The payment of a part of the compensation of a public officer or employee may be deferred and contributed to any death, disability or retirement fund, as the whole or a part thereof"—The purpose of making that provision in this section was in order that it be considered that this part of the fund which came from the salaries of employees might be considered as a deferred payment, rather than as a contribution to the public fund, which when mingled with the public fund, ceased to have any mark or interest of the employee in it. In other words, we desire it should be considered as a deferred payment, something that the employee was entitled to receive sometime in the future, and he would still continue to have some interest in that part of the fund, although it had been deducted from his salary, and that it should not be treated purely and simply as a contribution or a public fund in which he had no interest.

Mr. FIFER (McLean). When this proposition was before the Legislative Committee, of which you and myself are both members, wasn't it there offered as a proviso to section twenty, as originally written?

Mr. BARR (Will). I think when it first came in, Governor, that it came in as an independent proposal; whether it was to be tacked on to a certain section, I do not know, although I do know that during the discussion, at least, it was suggested that it be tacked onto section twenty.

Mr. FIFER (McLean). It was offered there, I do not know how it was offered in this Body originally.

CHAIRMAN SHANAHAN. The record of the Committee will show that the Committee having it under consideration sent it out as a separate section.

Mr. FIFER (McLean). That is all true, but it was originally offered as a proviso to section twenty.

CHAIRMAN SHANAHAN. Exactly.

Mr. BARR (Will). May I say this, Governor that in the work of the Sub-Committee, whatever was the intention when the proposal came into the Convention, or to the Committee, our purpose was to insure it should do nothing more than the section itself provided it should do, and we did not want to tack onto any section or any other provision of this article to carry with it any greater force than it contains in the language itself. "Disability or retirement fund as the whole or a part thereof, for the benefit of such officer or employee or his beneficiary"—that is the first part of the section, "and such persons may have contractual rights only in such fund thus accumulated as may be provided by law". Now, it was the intention of the Sub-Committee, but whether or not we have been able to convey that intention in language sufficiently clear to be clear to all the delegates or not, it seems to me at least to be quite clear, that the language was intended by this Sub-Committee and by the Legislative Committee

to give to the Legislature the right to enact legislation that would give to the person who was entitled to receive a pension, a contractual relation between him and the employing body, whether city or county or park board of the state, so that he would be entitled to his proportionate share as provided by law, enacted by the Legislature in that fund when accumulated, but no interest in anything beyond the fund itself, and our purpose in doing that was so that the state or county or the city might never create a tremendous amount of obligation with its employees that could be enforced beyond the funds that had been created for that purpose.

Mr. STAHL (Stephenson). When the Pension Commission, which was appointed in 1917, made its report in 1918 and 1919, I would like to inquire as to whether a recommendation was made by this Commission as to whether or not it was advisable to incorporate in the present Constitution a section relating to this proposition?

Mr. BARR (Will). I do not know about that, Mr. Stahl. We were not endeavoring to follow necessarily the recommendations by that Commission. We were endeavoring to take care of the situation that seemed to justify some degree of serious consideration by this Convention.

Mr. STAHL (Stephenson). The reason I asked the question was, isn't it a fact that the Commission recommended the standard plan and that the proponents of this article generally want the standard plan adopted?

Mr. BARR (Will). I think this is a correct statement of that proposition, Mr. Stahl. I think that the views of the members, of the gentlemen who suggested or submitted this matter to us or to the Committee was that the standard plan is desirable, but that there might be devised some other plan that would be considered as advantageous or more advantageous than the standard plan; and secondly, that the standard plan could not be adopted at once, that it was a matter that would have to be grown to, rather than forcibly forced onto the present system as it is. I believe it is the views of the gentlemen who talked to us that ultimately we should arrive at the standard plan, but you could not do it all at once.

Mr. STAHL (Stephenson). I fear that this is a complicated proposition that might involve the State, and therefore I would like to be convinced that the credit of the State is not involved in this situation, in violation of section twenty-four, and until I am convinced this, I shall have to vote against this proposal.

Mr. BARR (Will). I do not know how we can convince you, but the sub-committee was convinced that we had thrown about this provision such protection as would not permit the State nor any municipality to enter into any contractual rights in the employees beyond the funds that had been set aside and created for that purpose.

Mr. HAMILL (Cook). Will the gentleman yield to a question?

Mr. BARR (Will). Yes.

Mr. HAMILL (Cook). In the first part of the section it refers to a fund, "as the whole or a part thereof"—that is the fund is to be made up in whole or in part, or is it meant deducted from salaries?

Mr. BARR (Will). Yes.

Mr. HAMILL (Cook). And the last part of the sentence, which provides, "and such persons may have contractual rights only in such funds thus accumulated." Do the funds thus accumulated include amounts deducted from salaries, or include the funds in part from deductions and in part from general taxation?

Mr. BARR (Will). It is my view that the last term "funds" applies to the fund as created, including that deducted from salary and that accumulated from taxes and from no other source, and from no other source that that fund might be accumulated from.

Mr. HAMILL (Cook). That is the interpretation put upon it by the committee?

Mr. BARR (Will). That is the interpretation put upon it by the sub-committee.

Mr. MACK (Hancock). May I ask a question of the gentleman from Will? Could you give us an illustration of the circumstances under which this proviso of the Constitution, properly utilized by the legislature, may serve the ends of justice? I find myself in the position where I cannot exactly realize the extent or scope of the practical application of the rules we have placed in the Constitution.

Mr. BARR (Will). I have this in mind, Judge, I had no particular person in mind, but that a teacher in the public school of Illinois might go on for fifteen years teaching for a salary of one hundred dollars a month, although I do not suppose many get that now, and the pension law may provide there should be deducted from that teacher's salary say two dollars per month and the deductions would be made, we will say, for fifteen or eighteen years that she was in the employ of the State as a teacher, and that the seventeenth year the legislature might decide to do away with the entire pension law and the pension fund with reference to teachers, and some event might occur on account of sickness or breaking her arm or leg that might entitle her to enjoy the benefits of that pension fund, and she would wake up and find out the year before, after serving seventeen years in the teaching forces with the idea she had this pension available, she would find that no such fund was available and the money used for some other purpose.

Mr. COOLLEY (Vermilion). Not being a lawyer, I am asking this question for information: Is it not a fact, Mr. Barr, that a State Constitution is a limitation placed on the powers of the legislature?

Mr. BARR (Will). It is, yes, that is the general theory, as I understand it.

Mr. COOLLEY (Vermilion). Isn't it a fact then that the legislature possesses all the power inherent in the people unless limited here?

Mr. BARR (Will). Yes, I think that is true, except such as may be delegated to the Federal authorities under the Federal Constitution.

Mr. COOLLEY (Vermilion). That question is not involved here.

Mr. BARR (Will). No, but it has been suggested there are one or two sections of the present Constitution which would be in conflict with a law which would give to employees a contractual right in a pension fund, if that fund is considered public money as now considered by our courts.

Mr. COOLLEY (Vermilion). The object of this section then is to correct something already in our Constitution?

Mr. BARR (Will). It is to remove a limitation in so far as it affects this particular thing. It would be unwise to remove the section which this Act would be in conflict with, because it affects other things, but the purpose is to remove limitations insofar as it affects this particular transaction, it being in the mind of the committee, Doctor, that while the Supreme Court has held this is public money, yet as a matter of fact we did not think it ought to be considered as public funds.

Mr. COOLLEY (Vermilion). You have made a strong appeal here, which I think has been predicated upon the idea of fair dealing. In those views, I agree with you, but in the matter of involving this body in the intricacies of actuarial calculations, I have grave doubts.

Mr. BARR (Will). That is one of the reasons why we did not attempt to adopt in the Constitution the so-called standard plan, because that would involve us in the intricacies of the actuaries' figures and work.

Mr. COOLLEY (Vermilion). Would it serve your purpose to put in a section here which would permit the legislature to pass laws in regard to this matter that were not predicted upon a sound, actuarial basis?

Mr. BARR (Will). Of course this section provides, Doctor, it must be provided by law, that the legislature must make provision for the carrying into effect of the provisions of this section.

Mr. COOLLEY (Vermilion). It is my understanding that those provisions thus far have been found unsound, from an actuarial standpoint, is that true?

Mr. BARR (Will). The practice as has been followed in this State is not considered sound by actuaries, no.

Mr. LINDLY (Bond). I move that we now take a recess until four o'clock.

(Motion prevailed.)

Whereupon a recess was taken by the Convention to Tuesday, June 1, A. D., 1920, 4:00 o'clock p. m.

4:00 o'clock P. M.

The Convention met pursuant to recess.

Chairman Shanahan presiding.

CHAIRMAN SHANAHAN. The committee will be in order. We had under consideration when the committee adjourned section 33, and I recognize the gentleman from McLean, Governor Fifer.

Mr. FIFER (McLean). Gentlemen of the Committee: I shall not detain you very long in the discussion of this question, neither shall I address myself to the merits or demerits of the pension system as it exists in Illinois today, other than to say that in my judgment, if it continues, it will ultimately prove detrimental to the men and women who are beneficiaries of that system. In the first place, it takes away the incentive to industry and economy. If the people of the United States knew that their old age would be provided for independent of any effort on their own part, it would be the end of thrift and prosperity, in my judgment, in this great land of ours.

Scientists have told us that the line of demarcation between barbarism and civilization begins at the time when man begins to lay up something for his old age, begins to provide in summer for the long days of winter.

I am not seeking to destroy the present pension system, but I predict if it continues in this State of ours, it will return to plague our people. It is an un-American policy to have an office-holding class. The theory of our government is that any one of its citizens is capable of filling any of its offices from Coroner up to the Presidency of the United States, and it has always been the policy, not only of this republic, but of all the republic that have ever existed, to avoid large salaried officials, or to allow them to perpetuate themselves in office. If this pension system continues, you are liable to find in fifty or a hundred years from now an official class that are above and beyond the power of the people. You hear the mutterings already. There is scarcely a county in Illinois that has not what is called its court-house clique. Once men get in office it is not always easy to dislodge them, and one great danger, as I see it, to the institutions of our country is the perpetuation of a certain class of individuals in official life. Pensioners are very glad to get their positions.

You take it when any county officer is elected, when a new State administration comes into power or federal administration, if you please, and immediately a swarm of office-seekers start up, and it has been frequently charged that in advance of the election the offices had already been promised. I mention this only to show that these persons who are pensioned are the seekers after these positions and consider themselves exceedingly fortunate when they make good and secure an office. Now this, our pension system, is an existing institution in Illinois. I do not speak against it. I hope I do not wish to destroy it, but I do not want this body to place its seal of approval upon it, for it would be encouragement for future legislatures to go further than they have ever gone up to this time. I believe that it is better for the people of this country that everybody should know, office-holder and all, that it is his duty to so provide, to so economize, that he will have something for the winter of old age, and I say this in behalf of the men and women who are drawing these pensions today.

I have said more along these lines than I intended, and I wish now to address myself briefly to the particular question we have in hand.

It has been said that this proposal was intended to benefit the school teachers of the State. I say to the gentlemen upon this floor that the school teachers, so far as my information goes, are opposed to this proposition. I have received many letters from the school teachers of Illinois asking me

to vote and to use my influence against this proposal. Since this discussion began I have received a telephone message from my city of Bloomington, and the school teachers seem to have had a meeting there, and they ask me to use my influence to leave this pension question where it stands today. Now, where is the demand for this provision, and whence does it come? It does not come from my city, or seems it does not come from the city of Joliet; I know of no place in this broad State of ours where there is any demand for a change in the pension system in Illinois except that coming from Chicago. I am a member of the committee that reported this proposition. There was, as I remember it, but one teacher that spoke on the proposition outside of the city of Chicago, and he was a school superintendent from the southern part of Illinois, and he was opposed to the measure. The supporters all came from the city of Chicago. They swarmed into our room and they will swarm here in Springfield again every time the legislature meets in case this provision is incorporated into the fundamental law of Illinois. Now, this proposition was first offered as a proviso to section 20. I read section 30 from the Constitution as it now stands: "The State shall never pay, assume or become responsible for the debt or liability, or in any way give, loan, extend its credit to, or in aid of, any public or other corporation, association or individual." Now, then, it was offered in committee as I have said, as a proviso and on objection it was adopted as a separate section, and you will see from all this what was the intention of the friends of the measure.

Now, you heard the gentleman from Chicago who opened this discussion, and from that you understood that there were numerous pension provisions in Illinois; you will find on examination of the statutes that pension provisions are made for policemen in cities over 250,000, and then for cities over 100,00 and 50,000 and the same is true of the fire department, and the same is true also of the employees of public libraries, and then comes the sweeping provision for pensions for all the clerks and officials in all the clerical departments, sheriff's office and everybody else.

Now, has there ever been any complaint that the pension system as it now stands has not worked satisfactorily down-state? Has the city of Joliet any complaint? We have heard from the gentlemen who favored the proposition that it has worked well, it has worked well in the city of Bloomington and for all I know and believe it has worked well in all the towns and cities in the state except Chicago. What is wrong about this? Is it proposed that men down-state living in purely rural districts shall pay pensions to the policemen and firemen of my own city of Bloomington? Is it proposed that they shall pay the pensions of the firemen and the policemen of the great city by the Lake? Well, then, why make any change? We found when our friend from Chicago was cross-examined a little that it was proposed to wipe out all the several pension laws relating to cities of over 250,000 and cities of over 100,000, and they would vest the whole authority in the State of Illinois by one general law, and it would be up to Illinois, I fear, to make good any deficit in the fund that might occur in any of our cities.

Now, in the city of Chicago they have a law saying that two dollars of the salaries of the employees shall be taken from the employee, and put into a pension fund and that for every two dollars that is taken from the employee's salary five dollars shall be added by the city. Then why don't it work well in Chicago? It is simply because Chicago has not put in its five dollars. It seems from the gentleman's admission that there is a deficit of not less than forty millions of dollars in that city. Now, gentlemen, do you know of any reason if this Constitutional provision is adopted and they pass the general law as suggested why it would not be up to the State of Illinois to pay that deficit? It would not be any strained construction, it would be in perfect consonance with the very words of the provision should the Legislature see fit to enact such a law, and if enacted it is not likely the Supreme Court would declare it unconstitutional. Now, my friend from Joliet has read the case in the 264th Illinois by Justice R. Dunn. That was a suit brought by one Hughes against the Pension

Board, of which our friend Traeger (Cook) was a member, and the object was to have the Act declared unconstitutional. They were deducting from the pay of this employee, a stenographer, two dollars per month, and she objected to it. Whether it was a sort of agreed case, I do not know, but that is the case, and the Court decided that the money was not her's, that it belonged to the public and they had to do that in order to save the law and at the same time to dodge the provision of the Constitution which I will read: "The General Assembly shall never grant or authorize extra compensation, fee or allowance to any public officer, agent, servant or contractor after service has been rendered or a contract made, when there is the payment of any claim or part thereof which are credited against the state under any agreement or contract made, without express authority of law, and all such unauthorized agreements or contracts shall be null and void." I want you to note, "except as provided by law," showing it was clearly intended that Legislature could do that, but they did not, and all such unauthorized agreements or contracts shall be null and void, provided the General Assembly has not provided for the situation by law.

I am not seeking to overturn our present pension laws, I repeat I am only opposed to extending it to any greater length. I firmly believe that if this provision is approved you will see a law passed at the next General Assembly providing for the payment of all unpaid pensions, not only in Chicago but in the other cities of the state.

Another thing suggested to me by very good lawyers is that if a person has a contractual interest in their salary, or deferred pension, why wasn't it perpetuating these men in office? In the Chicago law, they can retire at fifty years. If a man is getting a salary of one hundred dollars, he retires on his salary of fifty dollars, and if he dies it then goes to his wife, his children. Now, there may be some justice about that, I have no quarrel with it. Let it stand, but let us stop right there. Let us not give the Legislature encouragement to go further with this because if we adopt this provision you will find that it will be a great point gained. If we recognize this pension system in the Constitution of our state, they will say, "See what the Constitution makers have provided". I do not say that there are no Constitutions in the United States that do not provide for pensions, but I will say, however, that I have never met with such a provision in any constitution and it is my belief that none exist. Let Chicago, and all other cities in default, pay into the treasury of these special pension boards the deficit, and everything will move along alright. Now, it has been suggested to me that it was the very purpose and object of this provision was to saddle these deficits onto the State of Illinois. There is no justice in it. There is no justice in taxing people of McLean county outside of Bloomington to pay the salaries or pensions of its police officers, none whatever. Let each municipality take care of its own payroll, its firemen, its policemen, and let these clerks in the numerous offices be paid by the common taxation, or the fees that are derived from their respective offices, and all will go well.

Now, you gentlemen consider this. In my judgment we will make a great mistake if we place upon this pension business of the State of Illinois our seal of approval. Let it go on as it has been going on. Let Chicago and all the other cities that are in default make good their deficit and all will be well. The schoolteachers want this matter left just where it is, and the only man that I recollect anything about who appeared before the committee was some school superintendent from Southern Illinois, and he was opposed to it and made a little speech against it. I believe that there is some reason, some foundation in justice for granting to the schoolteachers pensions, and I would not disturb that for the world. They are not office-seekers or office-holders.. They are educating the youth of this country. They are preparing the young men and young women for citizenship. We have for many years had universal man suffrage in this country, and we are soon to strike out the word "man" and then we will have universal suffrage. Bear this in mind, gentlemen, that in this country of ours when that day comes, the government, the whole government will

always and forever rest in the hands of a majority, and the government will be weak or strong according as the people are virtuous, patriotic and intelligent, and these school teachers are doing as patriotic a service to the country as our soldiers did at Vicksburg, Gettysburg and on the bloody fields of France. Let other nations point to their standing armies, their forts, their arsenals for safety, but for Americans, I would point them to the American church and American schoolhouse for their security. (Applause.) Therefore I am in favor of pensioning the teachers, but those are the people, those are our constituents who are opposed to this thing. They sent me a telephone message two hours ago asking me to oppose it. Now, as I said, I do not expect, I do not propose, I do not wish to disturb existing situations. Let it stand. I believe at the same time that it is a bad practice, a bad example for the very beneficiaries of this pension law. It takes away the incentive of industry and economy and takes away self-reliance, and you let it be understood that everybody is to be taken care of after they reach the age of fifty in this country, and the wheels of commerce will cease to turn. (Applause.)

Mr. MIGHELL (Kane). I think we have been discussing this matter for two or three hours, in a rather informal way. If I am not mistaken, there is no motion before this body, and in order to bring the matter to a point where we can take a vote on it, I have a suggestion in the form of a motion here.

CHAIRMAN SHANAHAN. The motion before the house is the adoption of section thirty-three.

Mr. MIGHELL (Kane). I offer an amendment: "It is moved this committee recommend to the Convention that section thirty-three of the report of the Committee on Legislative Department be re-referred to that committee, with the suggestion that it is the sense of this committee that the new Constitution should not recognize the inadequate, unscientific pension system that now exists in this State, nor should it contain any provision granting contractual rights to public officers or employees in any part of a pension fund, unless such fund is both adequate at all times to meet the promises made such officers or employees, and also effectively protected from diversion, by its custodians, from the purposes for which it was intended."

Mr. HULL (Cook.) I want to postpone the action of this Convention upon either this motion or upon this section. I think we ought not to base our actions upon the propaganda of any group either of school-teachers or of city employees, or any other body of employees, either for or against this proposition. It ought to be considered on its merits, for what it is. I do not think either that we ought to act upon this section out of the fears that have been suggested by Governor Fifer. It is not an attempt to foist on the State of Illinois the deficit in the distribution of the pension system of the city of Chicago. That is a scare-head, so far as this section is concerned. I am perfectly confident it has no such purpose and will be used for no such purpose. I am not enthusiastic over pensions for public employees any more than is Governor Fifer, but the day has long since passed for us to attempt to determine policies now. They have been determined in this State by acts of the legislature many, many times. It may be that the legislature will at some future time provide there shall be no future entrance into a pension fund, and so forbidding any future class of pensioners coming on after the passage of that Act, except those in service at that time. It is inconceivable, however, to me, that any legislature will break faith with the expectation of employees who have been making contributions to public pension funds for years past. Now, it was to inquire into the manner in which these pension funds had been formed, and to inquire into the solvency of the funds that the pension commission was created, and they found a condition which seemed startling to those who were not initiated, a condition where, based upon the methods of contribution each would use, the various funds were many millions behind, that is, if they had the money to put into funds from time to time

and build up a reserve bases just as insurance funds, it would require many millions to pay off these pension obligations which had accrued. Now, it will require many millions, so far as the city of Chicago is concerned, but I am perfectly confident that those obligations will be met in good faith and the employees who have been in the service of the city for many years and who will be entitled to pensions, will get their pensions. We will have to meet them and we should, but if we are to continue the pension system at all, it is certainly desirable that that be done upon a sound, actuarial basis, as has been suggested by others here, and the only sound basis, apparently, according to the findings of this commission, is the basis which will provide funds allocated to the individuals to meet the contributions for their benefit and to be paid to them when pension benefits are due. Apparently it is the impression of this committee that it will be a great protection in the creation of any such fund as that to have the individual contributor given a right against the continued contributions which he put into the sum, given a right of contract, if you want to call it that. Section five says, "Such person may have such contractual rights in such fund thus accumulated," and the contractual rights provided for here are, as you notice, limited to the accumulated fund. Now, the fears have been suggested, if we approve this particular section, we will be giving Constitutional approval of a pension fund. Maybe we will, I am not going to say whether we will or not. It is possible that is true, but I feel perfectly certain in my own mind whether we do or not the public employees who are not under pension fund will be down here asking for the creation of new pension funds and that the legislature, following the policy it has been pursuing in the past, will create additional pension funds for those not now under pension funds. If pensions are justifiable for any class of employees, when you get outside of those classes of employees represented by firemen and policemen, who are doing hazardous work, there is no answer to the logic that we should provide pension funds for all classes of employees, and I am perfectly confident, whether you approve this or not, the policy will be continued and extended to the other public employees not now under pension fund, and it seems to me highly desirable that when any new pension funds are created, they should be created, as far as possible, with a recognition of the actuarial requirements of such funds and with the rights of the contributors and prospective pensioners on the particular contributions which they make toward the fund. I would be inclined to believe that far from being a menace to the public generally, this section will help and safeguard those funds and the putting of them on a sound basis, and will prevent the creation of an unwise and unscientific pension fund. I am speaking out of a general impression on the whole pension subject as I see it, and not under the impression we will load the State with the liability of Chicago. I know perfectly well that that cannot be done under this, and I believe that this proposal ought to be approved.

Mr. GORMAN (Cook). Considering the subject of pensions, Mr. Chairman, it is hardly possible to discuss the merits of section thirty-three of the Committee's Report without touching a little, at least, upon the purposes of pension legislation.

It was in 1851 that the first pension legislation was enacted in the State of Illinois for the city of Chicago, for the benefit of the city firemen. That enactment came about because the people believed that a position that was extra-hazardous like that of a fireman ought to have some reward in it for the occupant of the position, when his days of usefulness were over, or in the event he became incapacitated while engaged in the performance of his duties. Later on, other pension laws were passed for firemen and policemen, all predicated upon the idea of taking care of those engaged in extra hazardous employment. In the meantime, our State government and our county government and municipal governments began to get larger and larger in their development and growth, and were constantly adding to their roster a great number of employees. It was seen that with a frequent

changes in office, the new incumbents would undoubtedly make changes in the positions of the employees, and for the purpose of having a continuity of policy and providing for the orderly conduct of government, that the employees should be protected and that the state government and county government and municipal governments ought to be protected, so that their business might be carried on with dispatch and with no disconnection which would come about with these changes. It was feared, too, that incumbents in office with a large number of employees on the payroll would have an opportunity to build up large political machines. Therefore annuities and pensions were provided under various Acts of the Legislature, to take care of these employees, who would be divested in part, at least of some of their political rights by the introduction of the merit system in our various governments. When employees came into their positions under the classified civil service, they were denied, constructively at least, the right to organize politically, and therefore being divested of that inalienable right, they had given to them something in its place which would permit them to obtain surcease when their years of continual daily work had come to an end, and every civilized government in the world, with the exception of Turkey and Haiti, have pension laws for the benefit of public employees, and the present sitting Congress has recognized the principle of pensions by giving to the employees in the Federal civil service a pension enactment. This is the first expression of that kind by our government, and it will inure to the benefit of thousands of employees that are incapacitated and unable to perform their work in the way they could when younger and possessed of more vigor. Now, in the state of Illinois these various pension organizations were created and developed without any formulated policy. There was no attempt to investigate and study the needs of placing these upon a good, standardized system, with information gained from actuarial experience. We have found now after this willy-nilly policy has existed for a number of years, there is a threatened deficit in these funds which may possibly preclude many of the beneficiaries from obtaining those benefits which they had a reasonable right and expectancy to look forward to. Therefore the purpose of section thirty-three is to enable the Legislature to do something that it has not had the power to do in the past, to enable it to create a contractual relationship between the employer, the state and the subdivisions of the state, and the municipalities on the one hand, and the employees upon the other hand. Those who advocate the adoption of section thirty-three are convinced that under its provisions there will be an opportunity given to the Legislature to co-ordinate these separate pension organizations, place them upon a sound, business basis, so that in the future there will be a prospect of every employee or his bereaved ones obtaining the pensions which he had a right to look forward to. I believe in the light of the experience we have had upon the part of our government, upon the part of the state government, and of all the civilized governments of the world, that we ought not now to attempt to turn back the pendulum, and that is exactly what would be accomplished if we are going to permit these pension organizations to thrive in the unsatisfactory and unstable manner they have in the past.

I feel we ought to take some step forward that will bring about a satisfactory condition in regard to these various pension funds. There is need for these pension funds. I do not believe that anyone here, in view of the fact that in the city of Chicago alone within the last few months there have been nine policemen killed on duty, would challenge the right of the state and of the municipalities to establish pension funds for the care of the men in such hazardous employments. The learned Governor (Fifer) has said that the recognition of the principle of pensions takes away from an individual all incentive to frugality, but he overlooks the fact that when employees become part of the mechanism of civil service, they are kept at such niggardly low salaries, there is no opportunity to practice anything else save frugality, and I feel when we take away from the employees the rights that are constitutionally theirs, we ought to place something in their stead; to divest them of rights, then follows the corollary of giving them

something over and above what the average citizen possesses, and I think on the question of the merits of pension laws that there is very little that might be debated, but the thing we are interested in is so co-ordinating these various pension funds that everyone who is now on the payroll of any of the departments of state government, who has paid into one of these funds, will have an opportunity to be protected against the possible diversion of those funds. It may be that some of the alarms of the Governor (Fifer) will prove in time to be well founded. Supposing they are, it is only right and just that these employees who have contributed of their earnings to these funds should be adequately protected, and their beneficiaries also.

In regard to the attitude of the teachers, I think they are interested in having section thirty-three adopted and placed in the Article on Legislation in the new Constitution. I know that from the communications I have received and also from resolutions adopted by the Chicago Teachers' Federation. I agree with the last speaker, the delegate from Cook (Hull) that we ought not to be moved by any selfish interests in the matter, we ought to treat this entirely as a proposition deserving of support on its merits alone. The only safe way to protect the employees, as we have found in the experience of the various governments that have undertaken to pension public employees, and as found by the experience of banks and railroads and so on wherever a contributory form of pension law exists, is to establish a contractual relationship, and that is all that section thirty-three proposes to do, and it ought to become a part of the new Constitution, so that the legislature may under its provisions have an opportunity to work out some sort of stable pension law for all of the employees in the State of Illinois that are subjected to these pension systems, and to give the legislature a further power to see that the funds are kept intact, so that when the time comes for the various beneficiaries to receive the amounts of money that have been promised to them, they will find them intact in the funds, and on that account, for these reasons, Mr. Chairman, I favor the adoption of section thirty-three. (Applause.)

Mr. CORLETT (Will). Since it seems to be admitted that it is a settled policy of the state to provide pensions in certain cases and for certain employees, it is unnecessary, I take it, to discuss the question as to whether that is a wise or unwise policy. It seems to me that the inquiry is rather what is meant by the proposed section thirty-three, and for what reason is the section proposed? While we have all read the section, I am going to read it again: "The payment of a part of the compensation of a public officer or employee may be deferred and contributed to any death, disability or retirement fund, as the whole or a part thereof, for the benefit of such officer or employee or his beneficiary, and such persons may have contractual rights only in such funds that accumulated, as may be provided by law." Now, we find, Mr. Chairman and Gentlemen of the Convention, that in the case of Hughes vs. Traeger, 264th Illinois, 612, that an employee of the city of Chicago, from whose salary there was to be deducted under the Pension Act of 1911, two dollars a month, filed a bill to enjoin the deduction of that sum of money. In that case, the Supreme Court undertook to define the rights of the employee or rather his lack of right, in the amount of money deducted, and in the funds thus accumulated, and in that case the Court held that he had no interest whatever in the fund being accumulated, that the deduction of the two dollars a month amounted simply to a reduction of his salary to the extent of the deduction, and held that that fund, after it had been accumulated by deducting it from the salaries of the employees, might be appropriated for any purpose or might be entirely destroyed. I am reading, Mr. Chairman, from page 616 of this case, in which the Court said:

"The effect of the law was to reduce the salary which the complainant would receive, two dollars a month, but he was not thereby deprived of his property, for he had no property in his unearned salary. It is true that the complainant acquires no vested interest in the fund created by the

statute, for there is no contract by the State or the city that the disposition of the fund may not be changed in the future, and in such event, the complainant's expectancy might be destroyed. The two dollars a month deducted from the pay of each employee does not become the property of such employe, and cannot be controlled or disposed of by him. The funds created by these deductions remain subject to the disposition of the legislature, and the employees cannot prevent their appropriation in any other way than that designated by the statute. It is not their property and the statute does not amount to a contract by the State to use it in the manner provided by the statute. A change in the disposition of the fund would not, however, violate any right of the complainant, for until the happening of the event designated by the statute for its distribution, he has no vested right in the fund, but only an expectancy created by the law, which the law may revoke or destroy."

Now, gentlemen of the Convention, that is the status of the employe from whose salary this money is taken, whether he wishes it or not the deduction is made. I am ready today, as always, to say that the employe from whose salary these deductions have been made has a contractual right in that fund. I am ready always to say that, when that fund has been accumulated in that manner, it shall be disposed of in any way, and that, gentlemen of the Convention, is all that the proposed section 33 means, as I read it, and as I understand the English language.

There is the adjudicated case by the highest court of this land which says, after that fund has been accumulated, that it may be appropriated for any use, it may be destroyed, it may be taken entirely away from those from whose salary it has been taken. Now, there seems to be some fear among some of the delegates to this Convention that the legislature under the power here conferred, which is simply a recognition of the right of the employe in the money taken from his salary, that something may be done that is wrong. I do not know whether the legislature will do anything wrong about this or not. I do not think they are any more likely to do wrong in this matter than any other matter. The power to do right always carries with it the power to do wrong, whether it is in regard to pensions or taxation or any other matter, and I am not at all afraid that because we are writing in the Constitution a provision which will make it impossible to take away the property right which he would have legally in the fund, it is going to start the legislature off on a system of wrong-doing in connection with this pension matter. It does not even provide that the State shall contribute any part, because the language of this section is: "payment of a part of the compensation of any public officer or employe may be deferred;" today when it is deferred, it is justified upon the ground it is a reduction of the salary contributed to any death, disability or retirement fund as the whole—the deferred payments may constitute the whole—or as part thereof—leaving the matter of what, if anything, that may be otherwise to provide is a matter for future legislation.

Mr. FIFER (McLean). You have stated that this salary is taken without the consent of the employees, two dollars a month?

Mr. CORLETT (Will). Yes.

Mr. FIFER (McLean). Suppose an employee at Chicago, in some of the offices there, and the law is that two dollars is to be taken from his salary to create a pension fund, and with his eyes wide open, he makes a contract accepting a certain salary, with that in view, would you then say that it is taken without his consent?

Mr. CORLETT (Will). Absolutely.

Mr. FIFER (McLean). Don't he consent to it the very moment he agrees to engage in the employment under the terms and conditions imposed by the law?

Mr. CORLETT (Will). How would that be with the man that was employed before the act took effect? That is, the act from which I read.

Mr. FIFER (McLean). That is construed in favor of the employee; they have said in this opinion found in the 264th—

Mr. CORLETT (Will). That is the case from which I read.

Mr. FIFER (McLean). —That the man is entitled to the benefits of the law. It is retroactive in its effect; you know that, don't you?

Mr. CORLETT (Will). Know what?

Mr. FIFER (McLean). That the Supreme Court in a previous decision has said that the law is retroactive. Suppose that the legislature should pass a new pension law more favorable to employees than the present one.

Mr. CORLETT (Will). Yes?

Mr. FIFER (McLean). That it was retroactive in its effect; would not that be a benefit to the employees?

Mr. CORLETT (Will). It would depend on what the law is. You have asked me several questions; will you answer a question?

Mr. FIFER (McLean). No; I am not on the witness stand. (Laughter.) It says here, to divert payments of salaries—when the city of Chicago or any other city has agreed to pay into the pension fund five dollars for every two dollars the employee has paid, would it be very much of a stretch, constructively, on the Constitution to say that the money that was paid in by the city, or ought to have been paid in, was a part of their salaries, because they contracted, when they engaged to do work, with the full knowledge of what the law is, and that was two dollars would be taken from their salaries and that five dollars would be taken from the treasury of the city, and the two put together to form a pension fund. Now, it would not be any great stretch of construction to say that the whole part belonged to the employee, that he had an interest in that pension fund because, whether paid or not, it was mingled with his own money and he contracted with the view it should be paid in and was really a part of his salary.

Mr. MIGHELL (Kane). You use in the next to the last line in this suggested article the word "only." I would like to ask if you can tell the members of this committee whether that "only," which does not have a comma, either before or after it, would be considered to refer to "contractual rights" which precedes it, or "any such funds," which follows. How will you determine that question?

Mr. CORLETT (Will). "Such persons"—persons who have had a part of their salaries taken out—"may have contractual rights only in such funds thus accumulated."

Mr. MIGHELL (Kane). Is that "contractual rights only in such funds?" You cannot read anything else in it."

Mr. CORLETT (Will). "As may be provided by law," it means this, that the State of Illinois can at any time entirely wipe out the pension system bodily. The fund already accumulated is a sacred fund which cannot, as the Supreme Court says now, be appropriated to other uses.

Mr. FIFER (McLean). Except by law, it says.

Mr. LOHMAN (Cook). Being a contributor to the municipal pension fund of the city of Chicago, I have been rather backward in saying anything on this subject. Back in 1905 I entered the service of the city of Chicago through competitive examination. Some six or seven years later the legislature passed a pension law, compelling me to join that pension fund. The finance committee annually appropriates my salary, but the deduction for pension is made at the time the pay-roll is made up. Now, I had to join that fund or give up my position with the city of Chicago. That was the position I was in at the time the legislature passed the pension law, and that legislature was not made up alone of Chicago legislators. I think Governor Fifer's district was represented in the legislature at that time. The advocates of this proposal who advocate its passage are all civil service employees in the city of Chicago, the members of the Chicago police department, the members of the Chicago fire department, the employees of the Chicago Public Library, the park employees, all policemen in the employ of the South Park, West Park and Lincoln Park Commissions, the Chicago public school teachers, the State public school teachers, the members of the State of Illinois Police Association, all members of the Police Pensioners' Association, totaling some 60,000 pensioners.

Mr. HULL (Cook). May I ask you upon what theory the various bodies of employees whom you have mentioned are supporting this particular section? What is their interpretation of its meaning?

Mr. LOHMAN (Cook). On the theory, I presume, that at sometime the legislature may wipe out all pension funds.

Mr. HULL (Cook). I was trying to get, if I could, the argument which I presume has been made about that with reference to its purpose, so I could get their point of view. Did they have the idea that this would hold toward the creation of a reserve fund system, with particular application to the particular contributors? Was it explained to them in any particular way?

Mr. LOHMAN (Cook). I presume that was in the minds of the committee that had charge of this, and I presume that information was given out by the Committee on Legislative Subjects.

Mr. HULL (Cook). You cannot speak from having been present at any of their meetings?

Mr. LOHMAN (Cook). Not with authority, no.

Mr. TRAEGER (Cook). There seems to be some little misunderstanding about the suit of Hughes vs. Traeger. That was commenced against me as a member of the Municipal Employees Pension Fund, of which I was president at that time, and as comptroller of the city of Chicago, when it was charged I arbitrarily deducted two dollars per month from each employee who was a member of the Municipal Employees' Pension Fund. That is how I was made a defendant. Along in the consideration of section thirty-three, this has been thoroughly discussed, and I am not going to take but a few minutes of your time. I am not a lawyer, but if I understand the meaning of contractual rights, it is to avoid what has occurred for years within the city of Chicago. Pension funds have been created and they have been abolished, and then pension funds created, as, for instance, take the policemen's pension fund. I, as a police officer, may pay into that fund for ten or fifteen years. I have no right in that fund if the proper fund is not there to pay me. The policeman then becomes, you might say, a charge upon charity, or his dependents become a charge upon charity. They are not asking charity, nor are the firemen nor the schoolteachers asking charity from the State of Illinois, but they believe when they have contributed towards a fund that they should have a contractual right in the money which they paid into that fund for the term of years for which they have paid in. Is there a delegate that does not agree with me that that is not a fair proposition? True, the legislature may add to this such proportion as they may see fit.

Mr. RINAKER (Macoupin). Are you willing to have this provision amended so it will apply only to the moneys that the people pay in themselves?

Mr. TRAEGER (Cook). No, I do not think it is the proper thing to do, I do not believe it is sufficient. I do not believe, gentlemen of this Convention, but that the taxpayers of this great state of Illinois would sooner contribute a small mite to help maintain the unfortunate families of the policemen and firemen who are employed at hazardous employment all the time. Take, for instance, in the city of Chicago or any large city, a policeman who leaves his family in the morning, they do not know whether he is going to be back in the evening to greet them. A fireman is called upon any moment to face danger, and he is in the same position, and I want to say to you gentlemen, for the school teachers for the great State of Illinois, who build up our manhood and womanhood, while not in the same hazardous employment as policemen and firemen, the employment is hazardous because they sacrifice their health and all their life for the cause of your children and my children, that they may be benefitted. I think it is just, and if I did not think so I would not vote upon the proposition. I have had considerable experience in the municipal affairs in our city, and I have seen the way the unfortunate policemen and firemen of our city are underpaid. The average young man of eighteen or

nineteen years old may go out into some manufacturing employment, or clerk in the bank if you please, which are the most underpaid of all, and receive as much salary as a policeman and fireman who work three hundred and sixty-five days in the year, and three hundred and sixty-five nights are subject to call. We should give due consideration to them. When you and I are enjoying our holidays, the policeman and fireman are protecting our homes, our lives and our property, and the welfare of the community in which we reside. Gentlemen, I am not going to take up a great deal of your time, but I believe that every man who believes in justice will support this proposition. A great many will say, "Well, why don't they resign?" I want to say unless the unfortunate conditions that prevail in our city of Chicago and in the State are corrected, that you and I will be going around trying, not only to pay better wages, but to get teachers so our children may be properly educated, for the future generations; and so it is with the policemen. We must have able and courageous men who will face danger no matter when it may come; you may take up the paper almost daily and you will find where some unfortunate man has been shot down in the performance of his duty. We have no control over that, it is a condition which prevails, not only in Chicago, but in a great many cities not as large as Chicago; that condition has prevailed and will prevail. It is worth the few meager dollars it may cost you and me and all the rest to contribute, to see that our schoolteachers and policemen and firemen are protected in their old age, after having rendered faithful service to the municipality of the State in which they work.

Mr. MACK (Hancock). It seems to me of all bodies which might be in session in this capital, that this body should understand the thing before it, the conclusions to be drawn, and the duty devolving upon it. I will not allow anyone to pass me in an intense desire to do absolute justice to the firemen and policemen and the teachers of this great state. I am deeply in favor of doing justice to the three classes mentioned here, but I do insist, you gentlemen of this Constitutional Convention, and you Mr. Chairman, that before we shall take up that general subject, there will be presented to us an amendment to the Constitution that involves that subject in all its scope; in other words, it has been my determination, and I join with the gentleman from McLean in proclaiming that if you desire to take up a proposal in this Convention which involves the general subject of pensions, that the intent of the plan, the machinery by which it is to be carried out, should be thoroughly understood, and we shall not take any chance on behalf of the state of Illinois, of adopting a proposal which the best lawyers in this Convention say involves one question and one question only. If this amendment involves that question and that alone, let me suggest to the gentlemen it will be very easy in the common usage of the English tongue to make that proposal read upon its face clearly and beyond any question that it is not the intention in any manner, shape or form, to involve the State of Illinois, or any political sub-division of the same, in any financial responsibility whatever in relation thereto, and that as suggested by the eloquent gentleman to my right, it would be easy to embody in that statement that the funds only, created by this assessment, and that the political body, or the State of Illinois generally, shall assume no liability, and that if the party entitled to this contractual relation shall withdraw from the service and shall not fulfill his or her contract, shall not be entitled to receive the funds, that the contractual relation shall not exist. For that, Mr. Chairman, I want to put myself on record in this Convention and to go back to those I represent as standing squarely and absolutely and unequivocally for pensions for these people, but I know that the Legislature has that power now and it is necessary to go beyond that. If that is so, I insist on sticking to the position I have taken throughout this Convention, and that is, where the power exists and the State has that power, that we shall not write in the Constitution meaningless laws, and I say to you men, to put this in such shape that the real intention and the scope and the purport of the same as it appears to you shall be

clearly limited to the matters which you say are to be embodied, and I will then gladly support it, and many of the other delegates will support it. I earnestly ask you to put this in a condition that there will be no question about it.

Mr. SUTHERLAND (Cook). I would like to ask one or two questions. The first question I would like to address to the delegate from Cook, Mr. Dawes. I would like to ask whether it is the intention that the funds thus accumulated should cover solely the payments made to the funds from the earnings of the employees, as indicated by the delegate from Hancock, or whether it is the intention it should cover such payments and the contribution made under contract of the law by the municipality or the other governing body.

Mr. DAWES (Cook). I think that this provision gives ample freedom to the Legislatures in providing in what form the contract may be created with respect to the funds accumulated. I understand that they have no authority to establish contractual relations except with respect to the distribution of such funds as have been accumulated. Perhaps a more correct way of expressing that would be that they must provide conditions under which that trusteeship would be discharged. There was also in the minds of those who presented this proposal this additional thought, that if the State should designate or allocate the exact disposition to be made of all funds, that it would take a long step toward placing these funds upon a sound, actuarial reserve basis. Now, if the State levies taxation for the purpose of proper pension annuities to those who have given service to the public, and has collected the funds, put the funds aside, in my judgment those funds should stand just as sacredly devoted to the purpose for which they had been raised and allocated, as the fund which has been given by the individual by deduction from his salary. I think it is important for the establishment of a sound pension system that the Legislature should be given authority to determine how both funds should be divided, those that are collected from deductions from salaries and those that are collected from taxation, for precisely the same purposes.

Mr. SUTHERLAND (Cook). This was intended solely to cover an interest in the funds paid in by the employees?

Mr. DAWES (Cook). The answer is no.

Mr. SUTHERLAND (Cook). Then, Mr. Chairman, I would like to ask the delegate from Hancock whether he thinks that the General Assembly now has the right and power to create a contractual right on the part of public employees in funds thus accumulated from both kinds of sources, from payments by the employees and from allotments out of the public treasury?

Mr. MACK (Hancock). That question was discussed this morning by lawyers here who had examined the matter, and it was stated that possibly the legislature had such power, but it did not seem to be clearly determined. I have indicated a desire that this matter be put in such shape that that power would alone be delegated to the legislature.

Mr. ELTING (McDonough). I am like my colleague from Hancock (Mack). This section 33 is not very clear, but is very indefinite as to its scope. Anyone would be glad to see schoolteachers and the city and State employees receive pensions, but I am opposed to officers receiving pensions. I think our government system of pensioning soldiers and sailors is all right but I can see a difference between services rendered to the government by officials, and soldiers and sailors. It has been proclaimed in this Convention opposition to constitutional provisions in the old Constitution, that the same provisions were already in the statutes, creatures of the legislature, and I might reply the same here; this provision we are talking about is already on our statute books, and will we go to the Constitutional Convention to give it greater stability and financial backing? I think like the delegate from McLean that it is contrary to our American institutions, that it destroys initiative and destroys economy, the sources upon which this great country is being developed and maintained.

Next to the soldier, I say the schoolteacher stands in rank. They should not be pauperized by paying them salaries that are not sufficient. I think,

sir, Mr. Speaker, they should be worthy of their hire, should be paid adequate salaries to start with, and leave it to them to make their investments, purchase their life insurance or anything else, as they please. The same with our employees. Of course they come in under the civil service, and I wish to have something to say about that later on, but as to the official, that is not involuntary service, and the men that fill our offices, that is voluntary service, and the terms of office are fixed by our legislature and by our Constitutional Convention, and the salaries in many cases are fixed; they are known, and people who enter public office enter it voluntarily. I am fifty-eight years old, and I do not know of anybody that has ever been forced into office. Therefore, the office being voluntary, the man knows before he enters the office what the salary is, and he knows that the salary will not be increased during the term of office. Now, what are we trying to do? By some hocus-pocus, by you contributing a few dollars and the State contributing a few dollars, we are trying to do, what? Give salaries to employees that we do not want to fix in the legislature? I am one that is willing to stand up in this Convention and fix salaries that are adequate for the services rendered. When a man enters public office for four years, he agrees to perform the services required in that office for the fixed salary, and no other, and under the Constitution he is not to receive any more compensation. That being true, this system, as has been said by the delegate from McLean (Fifer) is not American in its character. As said in the beginning, there is little difference between schoolteachers and the employees; I think schoolteachers, devoting their services to teaching school, should not suffer the pangs of poverty in their old age, but that can be remedied by paying them adequate salaries, and they have not been paid half enough in the last twenty years. Now, we want, too, by some kind of hocus-pocus to keep them in good humor. Appointive offices are different, that is clerical offices where people furnish correct and efficient service. I think the civil service comes in well, to keep from displacing an efficient officer, but his pay should be adequate, so he has a comfortable living, and enough to lay some up for the winter or a rainy day, and to take care of his old age. If he is not paid that much, if he is industrious, sober and economical, why, there is something wrong with your salary system. I am like my colleague from Hancock (Mack), I think if the State wants to go into the insurance business, let us go in it right. We understand the English language, let us make this section read just exactly what we mean, and not leave it for the Supreme Court or for the legislature to determine our meaning. How can we expect the Supreme Court or the legislature to interpret the section when we cannot do it ourselves? I would not want to venture an opinion on this section. I would be glad to see some plan by which the schoolteachers and the civil service employees could be taken care of, and I think that these mutual associations in cities, among the police officers, among the officers by which they contribute to a common fund to take care of them in their old age, are commendable, but we have that, we are told, the legislature provides for that, and our civil service is a commendable thing. There are many virtues there, but sometimes it is used for just the opposite, it is used gentlemen, many times, as a kind of political ambush. in which our politicians hide when their friends are asking for recommendations to various positions. I suppose I should have named it a political barrage. That is what I say about that section, a kind of constitutional barrage that when the smoke clears away, we are liable to find a political wood-pile behind it. I thank you.

Mr. TRAEGER (Cook). I would like to make an explanation. I believe Delegate Elting (McDonough) is of the wrong impression. The word "officers" does not mean elective officers; if it does, I am against it. It means police officers, guardians of the peace. If it means elective officers, I am against it. When I aspire to office, I know the position, and what I am going to receive, and we have got to serve a certain period of time, not twenty years, which very few men will serve, and I believe he has got the wrong impression; this does not mean elective offices, but guardians of the peace.

Mr. WALL (Pulaski). I felt very much inclined for this section until the gentleman from Kane (Mighell) raised the question of whether or not any public fund could be taken down under the contractual relation fixed in the section in the event he desired to do so, and in view of the decision read by the gentleman from Joliet and until further and later the gentleman from Macoupin (Rinaker) directly asked the question of the gentleman from Cook if any of these public funds would be returned back if they made application therefor; when I became convinced of the fact that could be done, I then concluded that the wiser thing to do would be to vote against this section. I know what the Supreme Court has said in this decision read by Delegate Barr, I believe the 164th—I desire to call attention to the fact that while that case holds that word “pension” does not always import a pension or allowance made for services rendered gratuitously, gratuitous allowance for services rendered, yet under the ordinary, common acceptance of the term, that is what it means, what the people generally understand it to mean, and that is what it would mean, if embodied in the Constitution; and gentlemen of the committee, I am against this section, because I am against the principle of voting pensions out of the public treasuries of the municipalities of the State or the State itself, for any other purpose in the world than military service.

I recognize and appreciate fully the high obligations we are all under to that great body of policemen and firemen who are filling hazardous occupations in their various departments of the municipalities of the State, and I recognize also the meager salaries that have heretofore been paid to them, but when you open the door by paying out of the public treasury whether it be paid in by way of tax on amusements, direct tax or tax on property, you are opening a field that is dangerous in the extreme, in my humble judgment, for the State to assume or for us to recognize in the Constitution. It is a field that has no end, it will multiply in geometrical progression as the years roll by. It will finally, together with the other systems of taxation that are now put on the people, destroy the ability to run the government, in my humble judgment. Now, it is said, and I believe if it should be applied at all, that it should be applied to firemen and policemen. I do not think it should apply to schoolteachers. My friend on the right says their health is destroyed. What is the matter with the man who follows the self-binder in the harvest fields of Kansas and Dakotas, or who works with the old threshing machine and produces for us that which we now so badly need, and is therefore a servant of the public in that respect? Why should not he receive a pension, he who is never idle during the ascendancy of the sun in the heavens every day. There are lots of positions more hazardous than school teaching, there are many as hazardous as the position of fireman and policeman, but they are not mentioned, because they are not public employees, and I take the position here that there is no excuse for the pensioning of a circuit judge. There is absolutely no excuse for the pensioning of a circuit clerk, county clerk, recorder of deeds and the treasurer, or anything of that kind, and yet we are told that this applies to all public employees and the public offices of the State, everywhere in the State, and I think, and I say this with all deference and respect to the great circuit judgeship of the State and of the judiciary, that the legislature when it passed the law in 1917 granting to circuit judges a pension, passed a law that is without excuse, that is indefensible, and that after a while the public will say, in fact they do now say, was the most egregious error ever committed by the legislature during its entire session. How many of the great body politic of Illinois want to pay taxes, after giving these men a big salary for twenty-four years, paying them an increased salary, and in addition that their families shall live in luxury the balance of their lives? That is indefensible, a crime against the people of the State, and I further say that the line of demarcation between military service and the service of civilians in public offices is such a line that there could be no question about what the word “pension.” That was originally intended, Mr. Chairman, to apply to those who saved the Union from dismemberment, who rescued from the shackles of slavery four million human beings, who during the war with Spain

helped poor, little Cuba, made her lay in Liberty's cradle, and let her hover against the bosom of this great republic, those men who served their country for the humanity of the world, they are the people who ought to receive their award from the contractual relations that exist between the public and its servants, and this contractual relation, in my humble judgment, gentlemen, I do not care whether it applies to the Governor of the State, to the judiciary, to the mayors of cities, to the clerks of courts, to the firemen, policemen, schoolteachers—that contractual relation that exists by virtue of their employment, in so far as paying money out of the public treasury is concerned, ought to cease when that employment ceases. (Applause). That is my humble judgment. I am from a portion of the State that renders me unfamiliar with conditions in the great City of Chicago, but might venture, gentlemen, the doubt, might I suggest to you I doubt seriously whether your people as a body politic outside of the interests of the police and the city officers and their friends, are very willing to vote as a tax in addition to the salary you are already paying more money to keep them up after they have served a number of years.

Now, carry this principle further. Go along with your schoolteachers, God bless them, they are the greatest necessity we have in the world. Greater than the preachers, greater than the lawyers, greater than the doctors, greater than all combined, insofar as the perpetuity of our institutions and the progress of our people are concerned. That is true, but the schoolteacher knows, as has been suggested, what he is going to get, like the circuit judge, before he is ever inducted into the employment. He accepts that. The contract is drawn, he performs the services, then vacation comes, then work; he performs them again and again, and on and on until we say he has worked for twenty years. Now, the wages increase just like the wages of others increase. It cannot be truthfully said, gentlemen, that the school teacher is working for starvation wages, any more than it can be said that the county officers are. Nor can it be truthfully said that there is going to be such a scarcity of schoolteachers that the public school system is going to suffer. I just read yesterday afternoon that one hundred fifty more applications for the schools had been made in the school board than there were places to fill. It is because wages have increased. Still, the giving of pensions will cause no let-up in the giving of wages, on the other hand the application of a portion of that money will cause the teachers to demand more money. Like these other gentlemen, I have no objection to the law as it is now, to the power of the legislature that it now possesses, but to extend those powers to recognize in the State of Illinois the right to tax your property and mine and the other peoples' property in this State for the purpose of providing in their old age for public officers, I am truly opposed. Now, it is true, Mr. Chairman, that we are nearly all here past the middle of life's journey. Let me say to you that out of the growing charity, out of the increased love and out of more perfect judgment, we have seen fit hitherto in this Convention to give to the children, the dependent, the neglected and the delinquent children of the State, homes, we are going to provide for them, we have seen fit to give dependent widows pensions, and that is perfectly right and proper. We have been charitable, we have dealt kindly with all those people who have a right to claim against us, but we cannot afford to take from the substance of the people further in taxes, because we have come to a point in this country where the national debt is fifteen per cent of the entire resources of the United States. The government at Washington has got a mortgage upon every piece of property owned by every delegate in this Convention for fifteen per cent of all he is worth. Now, down in southern Illinois, that amounts to fifteen per cent, then the township levies five per cent, the county five per cent, the county high schools and the school district five per cent, together with the government which makes forty per cent. How much further are you going to extend this principle? It would be just as proper and just as justifiable, more proper perhaps, if this delegation of men that constitute this Convention would vote to themselves pensions for their services here, than it is to give circuit judges a pension.

(Applause). I say that with all due respect to the courts, but I am opposed to the extension of this principle one iota further than it has gone.

Mr. GORMAN (Cook). I would like to ask the gentleman a question. In the event a public employee receiving a salary of one hundred dollars a month, and that under some law that has been created by the legislature, or enacted by the legislature, two dollars of that salary is contributed to a pension fund, whose money is that two dollars?

Mr. WALL (Pulaski). It belongs to him and I have no objection to giving that back to him. My objection is that he has no right to take any portion of it further than what he paid in. The balance of the fund is put in by the public.

Mr. GORMAN (Cook). If the municipality and the individual enter into a contract by the terms of which he is to remain in the employment of the municipality and work for the salary which is ordinarily a very low one, do you feel that after the expiration of a number of years when he leaves that employment, he is not entitled to the amount that the municipality claimed it would pay to him?

Mr. WALL (Pulaski). If he quits, or does not remain for the full period, he is not entitled to the money. He has not completed that contract, and that is a pension. He would not have a right to it.

Mr. GORMAN (Cook). You are opposed to him having any right to the money that the municipality put in?

Mr. WALL (Pulaski). Yes.

Mr. GORMAN (Cook). Supposing the municipality breaks the contract?

Mr. WALL (Pulaski). The municipality would have to suffer. I do not know what that would be. I favor no provision, Mr. Gorman, that taxes the people in the slightest degree, directly or indirectly, for the purpose of creating a fund for any civil employee.

Mr. TRAUTMANN (St. Clair). I make a motion to close debate and vote on the motion of the delegate from Kane (Mighell).

Mr. MICHAELSON (Cook). I rise to ask permission of the gentleman to say a few words upon this question before he presses that motion.

Mr. TRAUTMANN (St. Clair). Go ahead.

Mr. MICHAELSON (Cook). Time was in the State of Illinois when school teachers were paid by the municipality for which they worked in room and board, and that was sufficient pay. Time was in rural communications when it was a great honor to be a fireman and a policeman, and the honor was the compensation. Since that day, and a day in which a great many of the members of this Convention still live, times have changed, and now the business of school teaching is not only a business and a profession, and that of being an officer of the law, serving for the protection of life and property has got to be a life work, and it does not make any difference what the salary is, when their time has gone by and their service has been completed, to the municipality or to the State, were they paid ten times as much as they are now the State would still owe them money. Who is it that is always opposed to the doing of anything in behalf of the people or in behalf of any particular classes of the people? Up in Chicago it is the big corporations, the owners of large estates and the tax-dogers. They have always opposed the making of conditions such that those who have to live under them may live comfortably. That question has been up in this Convention before, and it will be up here until we adjourn. Let us take a stand as men. Let us represent the people from the districts that sent us here. Let us do something in their behalf. Every time that a measure which would benefit the people in any way comes upon the floor of this Convention, it gets very short shift, or gets voluminous objection from certain delegates in this Convention. Let us do something of benefit to our fellowmen, even though it be only a school teacher, a policeman, a fireman or a municipal employee. Let us give them some reward for a life's work. I know what it means to teach school. I have seen hundreds and hundreds of beautiful women step into the school house at the age of nineteen and begin the teaching of school, and in a very few short years they have changed, they are in a rut. Their business is in that school room; they have no other outlook, and after twenty-five years of

service, their life work having been given to the State, what have they before them? Their salaries have not been such that they could lay anything by. They have either got to live on what they can get in the way of help from their friends or their families, or they have to go somewhere and live the rest of their days. Why should not those people be given some kind of reward for the service which they have so unsitintingly given? Of what use is a policeman to the community after he has given twenty-five years of service in the protection of life and property? What can a fireman do after he has given the best years of his life protecting the property of the citizens of Illinois? What can any municipal employee do after he has given all the years of his life in doing the best work he can in behalf of the municipality? No matter where this man or woman works, the services he has given to the State, the State is in his debt. Let us start this right. If this is a measure which has been agreed upon by all the representatives of these various bodies, I think it is the thing to do to adopt it, even if the adopting of it costs the State of Illinois ten million or twenty million dollars a year, that should not stand in the way. Money is no consideration in a question of this kind. Let us give our people a chance to live and a chance to live comfortably. I am for this proposition, and I hope you will all be for it, and I hope that such objections as have been raised to this pension system, the kind of speeches and talks and objections we have listened to on this question, will never again happen upon this floor when the cause of the common people is being discussed. (Applause.)

Mr. DEYOUNG (Cook). I do not care to add to this discussion, but it seemed to me that in the discussion of the pending section, we have gone so far adrift as to lose sight altogether of the real purpose of this proposal.

We have had the matter of the policy of pensions discussed more or less, limited only by the extent of the ability of the gentleman to take part. The State of Illinois long since embarked to some extent upon the policy of giving to some of its employees pensions, and there is nothing in the pending proposal which seeks to fix one way or another, or to commit the State of Illinois to anything of that character.

I believe it was a great Senator from Massachusetts in reply to the Senator from South Carolina who said, that when the mariner at sea had drifted from his course, the first thing he would do would be to determine his latitude to see how far he had drifted from the course he sought to pursue, and it seems to me here likewise that in this discussion it is important to determine first and solely just what is sought by section 33 in the proposal submitted by the Committee on Legislative Department.

Now, so far as I am able to learn, the only purpose of it is to give contractual rights in funds actually accumulated, leaving to the legislature of the State of Illinois just as it has determined it in the past, the question of whether or not pensions shall be granted and limiting only the right of the legislature to administer the law and taking away, prohibiting that body from taking away a fund actually accumulated. As I read this section, it covers not only that portion of the fund contributed or withheld from the salary of a public officer, but also the part contributed by the public. There will be no vested right in any accumulations in the future on moneys sought to be accumulated by statutory enactments in the future. I agree with the gentleman from Pulaski (Wall) who spoke first, so far as pensions to judges are concerned. On that matter I have a record in a roll call in this building, in the Fiftieth General Assembly when it was sought to pension judges. I did not believe that a set of officers whose salaries were as high as theirs needed a pension, and I do not think so today, but that has nothing to do with this matter. By this it is simply sought to protect that which has actually been done.

Let me call your attention to a few of the authorities, to show what has actually been done in practice, and what has been done under the law as it now stands. The leading case in the State of Illinois on this subject appears in volume 288 of the Supreme Court reports. The facts are these: An officer, a police officer in the City of Chicago had served for twenty years under an act which gave to one who served for that period a pension. He

retired in the month of March, 1917, having complied with the provisions of the act, as they existed at the time of his retirement. On the first day of July of the same year the act was amended, requiring not only service for twenty years, but the applicant for the pension should have attained the age of fifty years. With the latter requirement, the applicant for this pension could not comply, because he had not yet attained that age. He sought this pension. The Supreme Court of Illinois said, sustaining the pension board, that he was not entitled to the pension, because he had no vested right in it, and notwithstanding the deductions from his salary, he had no recourse and was denied any relief altogether. That is not a matter of theory. Let us look briefly to what the Supreme Court has said on this matter. It was argued there, as here, that the right of a person claiming a pension was a vested one. A statute differs from a contract in that the government may withdraw the benefits conferred at any time it may deem advisable after a party enters the service, either before or after the right to a pension accrues. It also follows that while there is no vested right in a pension, it cannot be offset by the mere exercise of the legislative will. Here the Supreme Court applies this principle and denies to this officer a pension, which any man would have said as a matter of moral certainty he was entitled to. He retired on the 13th day of March, 1917, having served twenty years, and on the 1st day of July of the same year the act was amended to require the applicant to attain the age of fifty years. The denial was affirmed by the court of last resort in this State. That is the last expression of the Supreme Court, the 288th Supreme Court reports.

Let me call your attention to the case to which reference was made this morning, but I do not believe the facts will sufficiently present it to the members of this committee so its significance can be fully understood.

Here was a police officer in the City of San Francisco. The administrator of his estate sought a pension, which, by the terms of the act, the officer would be entitled to after a certain period of service, or rather his administrator would be entitled to if he died in the performance of his duty. Here was a police officer in the performance of the duties of his office, hazardous in nature, dies. He died on the 13th of March, 1889; on the 4th day of March that year, just nine days before his death, and mind you, this officer had been a police officer in that city for many years—nine days before his death, the act was changed so as to require other conditions. Now, during the term of service of this police officer, there was deducted each month two dollars from his salary. He had made this contribution to the police pension fund of that city, and he died, mind you, in the performance of his duty. It was not voluntary retirement, he discharged his duty and gave up his life in the interest and in the protection of life and property in that city, and the act was amended just before he died, and the administrator of his estate sought to get this one thousand dollars, to which every man would have said he was morally entitled, and the Supreme Court of California, applying this rule of law, denied the pension, and it was taken to the Supreme Court of the land, where the judgment of the state of California was affirmed. This is the principle that has been applied consistently by the Supreme Court of our State. There was no vested right. The Supreme Court of California said that it was within the legislative power to take away absolutely, not only that part which the applicant had contributed in the fund, but the other part as well, that was within the province of the legislature to take away, and they did it.

Mr. FIFER (McLean). Is it in the province of the legislature to repudiate the entire State debt of Illinois?

Mr. DEYOUNG (Cook). No, sir.

Mr. FIFER (McLean). Cannot the State, as a State, repudiate its bonded indebtedness?

Mr. DEYOUNG (Cook). I will answer you, Governor, and call attention to the very instance you cited, when in the very early days of Illinois history, when the legislature saddled the State with debt, and the State sought to repudiate that debt, when the matter was submitted to the electorate of Illinois, then the State, in the days of its infancy, when its resources were lim-

ited and it was taxed almost beyond the capacity of its citizenship to pay, refused to repudiate the debt and saved the honor of the State. In the discussion which we heard in Chicago a few days ago, the John Marshall of the Constitution, in the early days of the Nation, it was argued that all appropriations of money must be made by the House, because it must originate all money bills, yet, in order to negotiate a treaty, which required the appropriation of money, not only the Senate but the House of Representatives must necessarily take part, because there only appropriations could be made, and yet it was the great chief justice who argued that the Senate of the United States was the only body that could ratify a treaty, although it required the appropriation of money, and in the long course of the Federal government, never has the House once refused to make appropriations under the treaties which the President has negotiated and which the Senate has ratified, because they are moral obligations, and no State, any more than the nation, can do anything that is anything but moral; a moral obligation, to a representative body, has the force of a legal obligation.

Mr. FIFER (McLean). What you say is very familiar to myself, and I suppose every lawyer here knows about it, but you dodge the question. Can the State of Illinois refuse to pay its bonded indebtedness?

Mr. DEYOUNG (Cook). I thought I answered that question by saying no.

Mr. FIFER (McLean). Don't you know in every civilized country in the world the old doctrine that the king can do no wrong prevails? We have no king over here, the people are the source of all authority, and there is a supposition that the people, taken as a body, can do no wrong, even though they repudiate their debts, and if the State of Illinois wishes to repudiate its bonded indebtedness and all its other indebtedness, how are you going to prevent it? Of course, it is not moral, but we are not talking about that phase of the matter.

Mr. DEYOUNG (Cook). I simply want to add that so far as creating any rights in the indefinite future and adding any financial burden to the State, I should certainly be as much opposed to any scheme of that character as the venerable gentleman from McLean (Fifer) or any of the others who are opposed to the extension of the pension system, which is purely a legislative matter, but it does seem to me where the State has embarked by legislative enactments upon a pension system to the public officials and employees, whether police officers, firemen or schoolteachers, and they have in good faith rendered the service and deduction is made from their salaries, a public body will say, whether the State, a local subdivision or a municipality, the contributions that are actually in the fund that exists, it seems to me that the public officer, so far as that fund is concerned, so actually accumulated and existing, that he has not only a moral right, but he has a legal right to participate in that fund. Of course, there is absolutely nothing to prevent the legislature from wiping out this fund altogether.

Mr. FIFER (McLean). There is nothing to prevent them from repudiating the bonded indebtedness in this State?

Mr. DEYOUNG (Cook). The Federal Courts would have something to say about that. There have been certain State's indebtedness repudiated, there are indebtedness where citizens of other states could compel their payment.

CHAIRMAN SHANAHAN. I think in justice to the Legislative Committee I ought to state, in answer to the inquiry of the gentleman from McLean, Governor Fifer that there appeared before the Legislative Committee some weeks ago a committee of twenty-two, representing the various pension systems of the State of Illinois, a majority of whom were outside of Chicago. It was not a Chicago committee, and that the Chicago schoolteachers are unanimously in favor of this section. They are represented by a committee today, and by their attorney, and the Illinois State Teachers' Association through a committee informed us they were for this amendment and they are represented here today also, and I desire to state further that this section was debated on various occasions before the Legislative Committee, and that they brought in three different reports before this one was adopted, and the amendment offered by the gentleman from Cook county as an instruction to

the committee to bring in a report, that the Legislative Committee rejected it, that is to bring it in on an actuary basis. The question is upon the adoption of the motion made by the gentleman from Kane.

(Motion lost.)

CHAIRMAN SHANAHAN. The question is on the adoption of section 33.

(Ayes, 34; noes, 34.)

Mr. RINAKER (Macoupin). Not being a majority in favor of the motion, the motion is lost.

(Motion lost.)

Mr. SUTHERLAND (Cook). I desire to be recorded as voting "no, for the purpose of moving a reconsideration.

Mr. RINAKER (Macoupin). I move the committee do now rise and report progress.

(President Woodward presiding.)

Mr. SHANAHAN (Cook). I desire to report that the Legislative Committee has met, considered Proposal 366, reports progress, and asks leave to sit again.

(Report adopted.)

Mr. SHANAHAN (Cook). I desire to submit a report: "The committee to which was referred Proposal 211, reports back the same with a recommendation that that be rejected."

THE PRESIDENT. Under the rules, the report of the committee will be printed and lie upon the table.

The Committee on Rules and Procedure also asks leave to submit a report: "Your Committee on Rules and Procedure recommends that Proposal 361, reported by the Committee on Agriculture, be taken from the table and placed on the General Orders for consideration in Committee of the Whole."

(Report adopted.)

Mr. BRENHOLT (Madison). I move that we adjourn until tomorrow morning at nine o'clock.

(Motion prevailed.)

Whereupon an adjournment was taken by the Convention to Wednesday, June 2, A. D. 1920, 9:00 o'clock a. m.

WEDNESDAY, JUNE 2, 1920.**9:00 o'Clock A. M.**

THE PRESIDENT. The Journal of Thursday, May 27th, 1920, was placed on the desks of the delegates on yesterday, and is now subject to correction. There being no corrections proposed, the Journal of May 27th, 1920 will stand approved, and it is so ordered.

Whereupon the Convention proceeded on the order of general orders of the day, reports of standing committees, reports of select committees, introduction of proposals, first and second reading of proposals, motions and resolutions.

Mr. McGUIRE (Randolph). I ask that this petition be referred to the Committee on Bill of Rights.

THE PRESIDENT. The delegate from Randolph sends petitions to the desk and asks that they be referred to the Committee on Bill of Rights. Without objection, it will be so ordered.

Mr. GANSCHOW (Cook). I have a petition which I will ask to have referred to the Committee on Bill of Rights.

THE PRESIDENT. Without objection, the petition will be referred to the Committee on Bill of Rights.

Whereupon the Convention proceeded on the order of general orders of the day.

THE PRESIDENT. Having reached the order of business of general orders of the day, the Convention will resolve itself into the Committee of the Whole for consideration of such matters on the general orders. The chair designates Delegate Trautman to act as Chairman of the Committee of the Whole.

(Chairman Trautman presiding.)

CHAIRMAN TRAUTMANN. The committee will be in order. We have under consideration Proposals 369 and 370. The clerk will read Proposal No. 369.

(Proposal 369 read by clerk.)

CHAIRMAN TRAUTMANN. The first section of Proposal 369 is under consideration. This section is the same as in the present Constitution, except four words were taken out, relating to treasurer. The reason for that is in this proposal the treasurer's term is changed to four years instead of two.

Mr. BRENHOLT (Madison). I move it be adopted.

Mr. HULL (Cook). I offer an amendment to section one, by adding thereto the following: "The General Assembly may by law provide that the Secretary of State, Attorney General, Treasurer and Superintendent of Public Instruction, or any one or more of these state officers, be appointed by the Governor, the majority of the Senators elected concurring therein by a yea and nay vote."

The amendment which I offered to section one is a supplementary report to 370, and in the exact words as reported out of your Executive Committee, so that if the amendment is adopted, the article will provide for these state officers as constitutionally elected officers, with the power left to the General Assembly at some future time to make them appointive officers, to be appointed by the Governor. That is, all officers except the Governor himself. I should have preferred to have seen the Proposal 369, making all of the State officers, except the Governor, appointive officers in the first instance, but if they cannot be made appointive officers in the first instance, I think the door ought to be kept open so that in case public opinion of the State supports the idea that they should be appointive officers they can be made appointive officers. I believe it will add to the

sense of responsibility of government. I believe it would add to responsibility in public organization and public life if the executive organization of the government were made up in that way, so you had one elected executive and the other executive officers were like in the Federal Government, members of his cabinet. On page 3 of this proposal, in section six, it provides: "The supreme executive power shall be vested in the Governor, who shall take care that the laws be faithfully executed." That provision is an absurdity as long as we have five or six executive officers, and as long as it is impossible for him to see that the laws are faithfully executed. I hope that at some time to come, if my proposal should be adopted, public opinion of the State would support the idea. Of course, until the public opinion of the State supported the idea of having these officers appointed by the Governor, they would not be appointed by the Governor, because no legislature would go contrary to the wishes of the people, and I see no reason why a member of this Convention who believes that the State officers should be elected should object to leaving the door open so that they may be appointed, if desirable.

I might at some length debate the question of the desirability of having these State officers appointive. I do not know whether you wish to hear a debate of that kind. Personally, I believe they ought to be, as I said before. I have in mind particularly the office of State Superintendent of Public Instruction. They can all be inclusive, so far as differentiating between them. I do not think they all ought to be constitutionally elective offices. When the education article was before this Convention, effort was made to have the trustees of the State University made constitutional elective officers. The Convention decided to leave them as they are, elective officers under the statute. I urged at that time that they be left as they are, elective officers under the statute, for the reason that at some future time we might perhaps see fit to organize our education system in a different way, so as to bring all our educational agencies together, the public school system under the Superintendent of Public Instruction, the Normal Schools, which are now under the Executive Department of the Governor, and the University trustees, all in a unified system of public instruction. This Convention saw fit to leave the trustees of the State University as they are, elective officers by statute, and I think it might be wise to make it possible for the legislature to take the Superintendent of Public Instruction out from the laws of elective offices under the constitution. At some future time, there may be a unified system. Nothing of that kind will be done until the public opinion of the state supports the idea.

With reference to the Attorney General's office, a very important office, one of the most important in the state. He has the enforcement practically of our state laws in his hands. The Governor may appoint commissions, he does appoint commissions, but the Attorney General, however, represents those boards and commissions in the enforcement of the law, and the Attorney General may differ with the Governor in respect to the policy of the state and the policy adopted by boards and commissions. He can, if he choose, act absolutely independent of the Governor, and he can prevent the carrying out of a policy by the Governor if he wishes to, and it is no secret in some administrations in the past, an attitude of hostility by the Attorney General has been shown to the Governor in respect to the policy of the state.

The State Treasurer's office is purely an administrative office. It has no policies to formulate, there is no particular reason why it should be an elective office, except it has been in the past, and I can see why at some future time the legislature might see fit to take that office out from the laws of constitutional elective office and making it an appointive office.

The Secretary of State's office is largely an administrative office. Some matters of discretion are given to the Secretary of State, but in most respects it is an administrative office, without much discretion, and it seems to me at some future time the legislature might say that it ought to be an appointive office under the Governor. There are certain functions performed by the Secretary of State with reference to corporations, for in-

stance, which might properly be left to the Department of Trade and Commerce, in order that those particular functions of the State could be handled together.

Gentlemen, if you are in favor of electing state officers, you cannot have objection to the amendment, which simply leaves the door open for changes if changes are deemed desirable, because no legislature is going to make those changes unless the public opinion of the State supports it. I hope the amendment which I have offered will be adopted.

I know it will be said that the Convention is reporting out a separate article which may be put upon the ballot, so that the public may choose between the appointive system and the elective system being left to the discretion of the legislature. Gentlemen, that is simply passing the buck to the public. The members of this Convention ought to have the courage to make some determinations on questions of that kind. The members of this Convention are better able to judge on that question than the general public. We have been sent here to make those decisions for the public, and we ought to decide and not dodge the issue by any such alternative proposal to be submitted to the voters of the State.

Mr. CUTTING (Cook). I, too, am in favor of the amendment. The same amendment was presented, gentlemen of the Convention, in the committee by myself. It was drawn, however, by another member. You will note that there are provided three State officers that under all circumstances must be elected. The Governor, the Lieutenant-Governor and the Auditor, and that the Auditor's duties are considerably increased by the terms of this committee's report. The reason for excluding the Auditor from those who might be appointed by the Governor seems plain. He is the officer who has certain executive duties to perform which may come directly in conflict with the duties of all other nine officers, whether they be elected or appointed. Therefore, it was thought best that the Auditor should be always an elective officer, and should have his commission from the people and should in no sense be dependent on anybody for appointment. On the other hand, it was thought that some or all of the other officers might well be appointed. The appointive system with regard to the cabinet of the executive officer has been so long in existence and has worked so well in the Federal Government, it seems it ought to be possible in a state government for the same conditions to exist. The mayor of a city at the present time has a far wider selection and a greater power in determining who shall be his assistants and his advisers, his friends and his cabinet, than has the Governor of the State. It would hardly be thought best that the mayor of a great city should not have the appointment of those who will really be his assistants and his guides. At the present time, when we elect an Attorney General, he might be at outs, both politically and otherwise, with the Governor, and the Governor might be unwilling to take the advice of that officer, and he ought to have the selection of that officer, if no other. He is the man who is supposed to guide the ship of State, so far as the legality of the acts of the Governor is concerned. He is the most trusted person, or should be, that the Governor has about him, and why should there be any objection, when we have elected a man to the office of Governor of the State, to having him select the people who shall make up his official household, I cannot understand.

It would be thought revolutionary if the President of the United States were required to have an election of his Secretary of State, or his Secretary of the Treasury, or his Attorney General. In every instance he appoints them, and they are confirmed by the Senate of the United States. Why not the same in the State? Simply that we have not done it heretofore, and I take it it will be argued we should not do it, because it has not been done. Why not elect the Governor and hold him responsible for the things occurring in his administration? We do that with the President and the mayors of our cities; why make an exception of the Governor? And as has been well said by the gentleman from Cook

(Hull), there will be no danger of this passing the Legislature unless we shall have moved on to the point where we elect one man as executive and hold him responsible for his administration. That time is coming. We are doing a thousand things, I take it, that were not thought possible a short time ago. We have learned to like a lot of things we did not once like, and this idea of shortening up the number of persons to be elected by the people is one that will continue to grow, and we shall centralize responsibility and hold the individual that we do elect to the highest position in the State, responsible for all that happens.

Now, if a treasurer defaults, it cannot be laid to the administration. He is elected by the people, the same as anybody else. If the Attorney General is incompetent or at outs with the Governor so his opinions are not taken, he has an independent order from the people of the State that he is just as big a man as the others, so far as the power he gets from the people is concerned; so it goes throughout the entire list; but if you have a harmonious administration, conducted by an individual, as our President conducts his, precisely as the mayors of our cities conduct their administrations, in the main, there are some exceptions, of course, then we shall have responsible government to the people.

The idea that every person who is not elected by the people is in some sense antagonistic to the people, or that the idea of appointing the officers by persons elected by the people is in some sense a slap at the power of the people, is absolutely fallacious, in my opinion. It has gone out with the best thought of the world, and we are coming to the point where we will regulate the number of persons on our extended ballot, we must centralize responsibility and hold that person responsible for results. I am in hopes, gentlemen, this will pass. I know from my experience with the committee, which was a very representative committee, the idea was on these subjects that we were not yet ready to take up this question in its full sense of the responsibility of the appointment of the cabinet of the Governor, but why not put it so that when the time comes when this development shall have gotten to the point of fruition, we may put into effect the idea without a constitutional amendment or the passing of a new Constitution. There are many reasons why this should be adopted, but we ought not to take all the time perhaps to discuss it here.

There will be presented to this Convention as a part of this committee's report this same wording exactly, to be incorporated into a separate ballot provided you do not put it here as a part of the Constitution to be adopted. You know in all probability how a matter of that kind, which is not imminent, about which there has been no great excitement, will suffer; you know in all probability it will be rejected. If it was thoroughly discussed and the matter presented to the people in full, I should be perfectly contented to have it presented as a separate article, but it will not receive that attention which it ought to, under those circumstances, and therefore we prevent the legislature presenting this to the people some of these days when the people want it, and we believe in representative government, do we not? We think the representatives of the people will come here with a mandate from the people, and if they want this passed, it will be passed; if they do not want it, you know it will not be passed, so why not, gentlemen, ask yourselves the question, why not have a government of the State of Illinois which is thoroughly responsible to the people for everything that happens in it, not a six-headed department, but a one-headed department, elected by the people, and so see to it that the man responsible is held to that strict accountability which the American people know so well how to insist upon? You need not have them all appointed by the Governor, it may be other officers on this list should be appointed. The legislature can pick out what one, and you may, if you please, experiment with the one, and have the appointment made, and see whether that meets with the approval of the people. If it does not, it can be repealed. Then you can take up such

ones one at a time if you like, as it seems best to have appointed by the Governor. As far as I am concerned, I would have the ones mentioned here, leaving the Governor, the Lieutenant-Governor, who may succeed him at any time, and the Auditor, elected. This matter has not received the attention it deserves. It is very easy to say you are taking away from the people something which they ought to have presented to them individually. I take it that the only thing you want to present to the people is the responsible head of the government of the State and to insist that he and his cabinet shall be responsible, and that means that he shall be, and when you have done that, you have placed your State in that condition of perfection which has been long occupied by the United States of America and which has worked so well in the administration of all our affairs, both domestic and foreign.

Mr. CARLSTROM (Mercer). I am at a loss to know why the distinguished delegate from Cook county cites the Federal Government as an example why we should adopt this amendment, especially in view of the fact the United States Government was without a head for months, with a cabinet so appointed, and where the one member who had the temerity to take command of the ship and do something for the disturbed economic condition of the country was dismissed for his pains. It does not seem with this fresh in our memory we can point to one man who has the sole and autocratic power, and who can place the other members in a position of fear to discharge their plain duty. Certainly we cannot wish to have a situation like that in Illinois.

Mr. HULL (Cook). Would you have the Secretary of State elected by popular vote?

Mr. CARLSTROM (Mercer). Under the circumstances shown us last year, I would say yes.

Mr. Chairman and Gentlemen, the reason fundamentally I would oppose this amendment, and the separate proposition to the people, I know what they will do to it, they will kill it properly, and kill it in a way it won't be heard from for quite a while. Nevertheless, I do not believe in loading the Constitution with any proposal that is inimical to their welfare. I believe, gentlemen, one of the situations in this State and every state in the Union that has done more to bring about a feeling of discontent on the part of our people is the gradual slipping away of governmental powers and rights, and those powers and rights being given over to centralized authority. Today the Federal Government is invading every home and controlling minute affairs of private life, a thing it was never thought it would do. When the states surrendered certain rights to the Federal Government, they expressly stated that all rights not expressly reserved should be left to the states. We find the Federal Government reaching out into the homes of our citizens, and a Federal officer is a much more frequent visitor today than a State officer was ten or fifteen years ago. They are everywhere. They are omnipresent, and that condition of affairs is responsible, I believe, for the condition of unrest that obtains in the United States today. I believe a government should govern as little as it can in a national sense and in a state sense, and leave to the people of the communities the right to develop themselves according to their own capacity and character, so long as they do not come into interference with the rights of organized society. I am opposed to the centralization of government. I think it is far more preferable that the people of the State of Illinois and other states make mistakes in the selection of people who represent them than to surrender the rights of government to one, if you please, with unlimited authority to act as he may see fit. I do not know who will be the Governor of Illinois, and the time may come when, perchance, a man is elected who has not the interests of the people at heart, and who finds himself occupying that high office, and if such a situation might arise and we surrender the power to him to appoint his subordinates and let him control the government, God help us! I want to say that I shall vote against any surrender. I believe, my friends, that the thing we need in Illinois today is not the surrender of government to centralized authority,

but it is that every citizen of Illinois who has the future of his country at heart and of his State at heart, makes it his business to try to interest his neighbors and his fellowmen in our government, to the extent that they will take an intelligent notice of the administration of the affairs of government, and in that intelligent public mind is the safety of the future. It seems to me that is the thing we should direct ourselves to, instead of surrendering more and more the authority to one person on account of his peculiar fitness. We are approaching the old theory that the kings reign by divine right, and there are some few individuals in this and other states who, by reason of peculiar ability, peculiar character, should be clothed with this divine right to rule the people. If we cannot rule ourselves, let us confess it now. I am not ready to confess it. I think we should see that the people should become interested and that the children should become interested in our government, and see to it that they watch the course of its administration. It has been said if the legislature was given the authority to provide for the authority for these offices, that they would not act except in response to popular demand, and I would ask you gentlemen to please not misunderstand me. My remarks are not intended as personal, but from the experience of the past, the legislatures of the years, there have been more than one occasion with which we are all familiar, where the pressure of public sentiment has not been able to produce results which the people demanded. I believe the more we surrender ourselves to centralized authority, the more danger to the people of the State. I sincerely hope this amendment will be defeated, and roundly, and we educate our people so they will intelligently participate in our government, rather than surrendering it to someone who is conceded to be capable alone of governing. I thank you. (Applause.)

Mr. McEWEN (Cook). If I had no other knowledge than that from the speech of the last speaker, I should think republican institutions were in danger of perishing. I should think that this Convention was in a great conspiracy to overthrow the rights of the people of the State of Illinois and establish an autocratic government. Fortunately for my peace of mind, I have some other information on the subject than that derived by a speech of this character. We have seen the history of the State of Illinois through prior Constitutional Conventions. We know something of the temper of the people, of the disposition of these delegates, and I would like to assure any of the gentlemen who have been put into a state of mental terror by the suggestions made by the last speaker, that republican institutions are about to perish, that they are without foundation.

We have heard this talk a great many times before that democratic and republican institutions are in great danger of suffering by reason of vesting the appointment of some person in some other person or official elected by the people themselves. It is specious. It is without merit, and I might go a step farther, that appeals should not be made. We are here to serve the interests of the people of the State of Illinois, and serve them to the best of our ability, and secure for them the best possible form of government. I believe heartily in the merit of this proposal. I believe it is an unfortunate situation where the Attorney General should be out of sympathy or in opposition to the Governor of the State. I believe in a government that has enough strength to it to function properly. It is because we believe that and because we believe that we do not want a government that consists of a debating school, that we are proposing to eliminate minority representation. Minority representation would place in this General Assembly members of a dominant political party, other members of the minority political party, and still other members of other political parties, clear down the line. That would give membership to Prohibitionists, Socialists and representatives of all the different parties; not that there is anything against having representatives of those classes here, but we want a government to function properly, and if you carry this system of minority representation to a logical conclusion, you will have a debating school. The gentlemen thought he made a great point because an incident happened in Washington that seemed to militate against the

argument presented in favor of this proposal. I would like to ask him, would he have liked to have had, throughout our history, the Attorney General of the United States and the Secretary of State and the other cabinet officers elected by the people? Does he think he would have had a government in Washington that would have been better and functioned more efficiently than the governments of the past have done, if we had had that sort of arrangement? I say this without any reflection on the men who have had the office of the Attorney General of Illinois, but does he think he would have had in the office of the Attorney General in the cabinet of the President in Washington, the same high-grade, magnificent type of lawyer that has filled that office in years gone by? Isn't it a fact that this thing happened that he called attention to; isn't it the exception that proves the rule? Don't we notice it and think of it because it is so extremely unusual? Nothing like it before, but the Secretary of State was dismissed because he was attempting in a reasonable way to discharge the duties of his office.

Now, I am in favor of this resolution. I would like to go farther and see the provision eliminated which provides for their election in the first instance, the election of these officers, but it seems to me the general opinion that is not practicable, it is not the demand of the times, and I am perfectly willing to accept that situation, but let us leave the door open so that the legislature hereafter, in meeting the responsibility of the demand of the people, will have the power to do this thing without the trouble of calling a Constitutional Convention or amending the Constitution itself. I can see no possible harm it can do, and believe it is right in principle, and I hope it will be adopted.

Mr. CORLETT (Will). I am opposed, gentlemen of the Convention, to the proposed amendment. It is admittedly not based upon any present public demand. There is no claim made that the officers who may hereafter at some future time be appointed instead of elected are inefficient, or that their offices are not efficiently administered, nor is there any claim that these officers are not high grade men. I think that will be admitted. I think it will also be admitted that our State officers during the years have been high class men, who have sufficiently administered their offices. It is said that at some time public opinion may demand that these officers be appointed, instead of elected. When that time comes, gentlemen of the Convention, this Constitution can be amended and that can be provided for. There is no occasion, as I view it, to anticipate a change in public sentiment in respect to this matter. It cannot be claimed the service to the people will be improved over what it is at present and what it has been in the past. I do not believe that any member of this Convention will advance that as an argument in favor of the proposed change. Now, I want to just say this, that the people of this State who have had business with the different offices in the State of Illinois and who have also had business with the different departments at Washington will realize to the full that they receive greater consideration and more courtesy in the transaction of their business with the elective officers than they do as a rule with appointive officers. Now, they may receive too much consideration, and too much courtesy, but whether they do or not, they like it, and I entirely agree with the statement made that public opinion at this time would not approve the appointment of the State officers by the Governor. I want to say that the present Governor of Illinois and his predecessors in office have been men of such high character and great ability that during the time I have known of the State officers, I am sure that the appointment of these officers would have been wisely made, and I do not think that the government would perish if the Governor had the appointment of the officers mentioned in the amendment. However, the fact remains that the present system has worked well in the State of Illinois. There is no complaint anywhere, so far as I know, that it has not worked to the entire satisfaction of the people, and there ought to be some reason other than a desire to try something new, to induce this Convention to make

this change. The philosophy of the theoretical politicians who advocate the short ballot is a political philosophy that somehow or another does not appeal to me. That is all there is upon which to base the proposed change in the selection of the state officers mentioned in the amendment now pending, and for these reasons, Mr. Chairman, and gentlemen of the Convention, I am opposed to the proposed amendment.

Mr. KERRICK (McLean). The introducer of this proposition conceded that at this time it did not appear that any considerable sentiment in this State existed in favor of a constitutional provision permitting the appointment of State officers, but said that he well believed the door should be left open, in view of the possibility that somewhere or at some time it might chance to be the case that the people of this State would prefer to have their State officers appointed, rather than to have them elected. Now, gentlemen, in 1818 the people of this State framed a Constitution. They tried the experiment of having the State officers appointed, partly by the Governor of the State and partly by the legislature of the State. They lived under that provision until 1848, and the system of appointing State officers had become so obnoxious, and it is easy to see why, even from a cursory history of the State during that period, that the Constitutional Convention of 1848 adopted the present method of filling the State offices by election. In 1870 the Constitution makers adopted the same provision. In the twenty-two years intervening between the making of the Constitution of 1848 and the making of the Constitution of 1870, not a single word of complaint has been heard against the system of electing State officers. You cannot find in the debates of the Constitutional Convention anything of consequence that looked toward a change. Fifty years have elapsed since the Constitution of 1870, which provided for the election of State officers, and I undertake to say that there is no member of this Convention that from the time when he first thought of being a candidate or delegate in this Convention ever heard any talk of any consequence from any source in favor of changing the system of electing our State officers. We have been deluged with resolutions, with suggestions of all kinds, almost upon every other feature of this Constitution, but there has been no movement, there has been no demand of any consequence whatsoever that we shall change our method of selecting our State officers. Now, if for seventy years, and after having tried for thirty years, and having discarded the system proposed by the amendment to this section, we have heard no complaint, we have heard no expression or desire for a change, how long will it probably be before the sentiment of the people of this State shall change, as it is said it possibly might change, so that the people of this State would be in favor of this radical change in the method of filling the State offices? If they had not found out in seventy years that they want a change, shall we give them another seventy or one hundred and seventy years to see whether or not somebody somewhere wants a change of this kind, or shall we, on the other hand, act as sensible men under similar circumstances and consider that nobody has expressed a desire for a change? Well, why put before them a suggestion that perhaps at some time they may change their minds on this subject? I see no reason whatever why this change should be made. The suggestion made here there will be entire harmony between the several State officers and the Governor may seem on its surface to have merit, but in fact it very often is to the contrary. I happen to know a situation which arose in the last preceding State administration, in which the Attorney General differed radically from the Governor and from certain other officers of the State Election Commission, and refused to sit with that commission because it ignored his advice, and they went wrong on the law and the Supreme Court set them right and justified the ruling of the opinion as expressed by the Attorney General of the State. That is a case in which, in all probability, the Attorney General would have accommodated his opinion to the wishes of his superior, to the appointing power that

might remove him from office. I see no reason at all, I see no shadow of an excuse, why this change should be made.

Mr. REVELL (Cook). Mr. Chairman, I do not think that the statement that there is no demand for this change is well taken. We are the representatives of the people on this Committee. There has been quite a respectable demand for a change on the floor in this hall. To say that the people of the State of Illinois are not making a demand outside of this hall is purely a matter of opinion of the individual members of this Committee. My opinion is worth as much as the opinion of anyone else, and no more. My opinion is that if this proposition were placed before the people of the State of Illinois to-day, that they would vote in favor of it by a very large majority. From time to time we hear talk in this hall about letting the people decide upon various matters. What do you say to them, "We know what you should have,—you want these specific State officers elected, and you must have them elected." You put a steel band around the matter in your assumption of what the people want or should have. And what do the proponents of this amendment offer the people of this State? They do not say, "You shall have these men appointed", but they say what in my humble opinion is proper to say, "that if you should in the future find it is or will be an advantage to have the state officers appointed, you shall then without any change in the new constitution have an opportunity to show it. If the people would like to have it, they must show it, and if they do not show it, and if they do show it, then why should they not have it? This can never be enacted without the people wish it. Here is a chance to give the people a choice, and yet we find many of the most conservative men in this convention denying to the people the right to choose between the elective and the appointive systems in connection with the officials we are here speaking about. I certainly would not be one to say to the people, "So far as this Constitution is concerned, you shall be tied up completely on the matter of the election of these officials and shall have no chance, without a change in the Constitution, to make them appointive, if it shall be deemed of value that they shall be appointed."

Mr. LINDLY (Bond). Mr. Charman, I do not believe with the gentleman who has just taken his seat that there is a demand among the people of this State for any such proposition as this. I do not believe as he does it will be passed by an overwhelming vote. I believe it will be condemned by such a vote as has never been cast in the State of Illinois. I do not want to take the time of the Convention to say why I am opposed to the centralization of power or to say why I am specially opposed to the giving to the Governor of the State such power as this would give him, but I just want to call your attention to some practical things about this amendment. I notice that the only gentlemen who have spoken upon this proposition and advocated it happen to come from the County of Cook. A few years ago we had a proposition brought down here from the County of Cook, and it was the Primary Election Law, and it was pressed until the legislature passed it, and there is not one of them but what would condemn it to-day. There is no question about this, that they would condemn this just as they do the Primary Law. If I was for the short ballot and for the Governor appointing these men, I never would be for this amendment. What would be the condition with this amendment in, that the legislature would have power to change the law? They might change it in the middle of an administration of affairs, or in one of these offices, just as they did last winter when the Board of Equalization was abolished in the middle of their term. I am not going to discuss that, whether right or wrong, but I do say that no legislature, nor any set of men ought to be abolished in office in the middle of their term. They ought to be abolished probably, but allow them to serve their term out, because the people elected them. The same condition could obtain with the Secretary of State or Attorney General or Treasurer as obtained here last winter, but what condition would the legislature be in if this amendment passed, what would be the result? Every winter when we come up with the legislature, and we are all human, there

is scarcely a man in this body but that knows what I am going to say, this man, if he did not get the appointment, he will go to that officer and say, "I will abolish your office and make it appointive, I want you to come across." (Applause.) It would happen every winter, not only that, but they would say, we want more appropriations, and your appropriations would grow, and I am against this proposition for that very reason. They say here the Attorney General ought to be under the control of the Governor. What is the Attorney General's office in this State? It is to administer the law of the State. Why should the Governor have the power to appoint a man to administer the laws of this State according to his will? Why should not this man be independent. Why should the Governor of Illinois appoint a man and determine where the deposits of the Treasurer's office should go? I want to call your attention to the sandbagging proposition that you are trying to pass here

Mr. REVELL (Cook.) Will the gentleman yield to a question? Are you familiar with the last expression of the people on the matter of the so-called short ballot?

Mr. LINDLY (Bond). I am familiar with part of what was done by part of the people.

Mr. REVELL (Cook). How are you going to get an expression from the people unless you accept some of the expressions of the people?

Mr. LINDLY (Bond). You just submit this to the people and see what they will do to it.

Mr. REVELL (Cook). Do you know that the last expression on the short ballot gave these figures: For the short ballot, 508,780, and against the short ballot, 165,270?

Mr. SUTHERLAND (Cook). Have you before you the question as it appeared on the little ballot?

Mr. REVELL (Cook). I have before me the record printed in the bulletins of the Constitutional Convention, giving the various votes upon the short ballot and upon other matters in the years 1902 to 1912.

Mr. SUTHERLAND (Cook). The reason I ask that question, Mr. Chairman, was that that particular short ballot question simply called for the creation by the General Assembly of a commission to investigate the desirability of shortening the ballot.

Mr. REVELL (Cook). I find, Mr. Chairman, that every time one brings up the matter of the short ballot, which the people have expressed themselves on, it never by any chance refers to the particular offices or officials we are discussing. It always refers to other officials not then under consideration. So we probably never will get a short ballot, but go on increasing it all the time.

Mr. LINDLY (Bond). I would like to ask you if you believe that we should always follow the vote of the people on these questions?

Mr. REVELL (Cook). I am not always sure that a vote should be followed. It depends. I assume that is why the public policy vote was adopted.

Mr. LINDLY (Bond). I would like to ask you what the vote on the I. and R. was in this State, and if you intend to follow it?

Mr. REVELL (Cook). I will express myself upon that matter when the question comes before this Convention. No need crossing that bridge until we reach it.

Mr. ELTING (McDonough). On this question, I favor the report of the committee, and against the proposed amendment, and I agree with the delegate from Will (Corlett), there has been no reason advanced why we should make any change in our organic law in this matter, and until there is some substantial reason advanced, I propose to vote for the election of these officers. It is true the Governor is the executive officer of the State and as such executive officer, his duties are sufficiently onerous to require his time without entering into the realm of politics to make the selection of the other officers who represent the people. It would require considerable of his time to investigate and find out whether such people as are proposed for appointment were acceptable to the people, and

that is not the duty of a Governor, to perform this part of the electorate; his duties are as the Chief Executive of this State, to see that the laws are properly enforced. It has been said by the delegate from Cook, one reason why the Attorney General should be elected was that he might be out of sympathy with the Chief Executive. That is just the reason I think that officer should be elected, because the duties of the Attorney General are not to carry out the ideas and individual policies of the executive, but his duties are to interpret the law as it exists, not only for the Governor, but for all officials of the State and the people of the State, and as far back as I can remember they have elected competent lawyers for that position. You do not want an Attorney General, in interpreting the laws of the State, if it was a harsh law, to have the soft pedal put on by the executive, so I think it is perfectly proper to say that the Attorney General should be responsible and his allegiance be to the commonwealth, instead of to the politicians who recommended his appointment. Therefore I see no reason why this officer, the Attorney General, should be appointed, and following the same line of argument, I see no reason why the other officers mentioned should be appointed, because the allegiance of all officers are direct to the commonwealth, and not to any executive that may be elected.

The executive is an officer of the people, just the same as these officers are, and his allegiance is just the same. I do not agree with all that has been said with reference to our representative form of government, that we are afraid to trust our executives, our officers. I say until the people fail in selecting competent men to fill our offices we should adhere to the plan of electing them. Now, what is sought to be done by this amendment? To shift to the legislature a *duty we do not want to stand up to*? We are here representing the Commonwealth of Illinois, and we should know whether or not the people of the great State of Illinois are demanding that their officers be elected instead of being appointed. We should know that, and act on it, and I am willing to take my share of the responsibility in saying that they do not want it, because it tends to centralize our governmental affairs and so, gentlemen, as it has been suggested here, we cannot point with any pride to the national administration as a perfect example, as a reason why we should appoint these officers. I say these officers are independent and should not be monopolized by any one of the State officers. I do not know of any more efficient way to obtain efficiency and economy than to elect efficient men competent to fill these great positions. I say we have had in Illinois the best, and no complaint has been made against our officers in this regard, and I say we can trust the people, and when the time comes that we cannot trust the people to select minor officials, how can we trust them to select the important officers of the country?

Oh, it is said we must listen to the demand for the short ballot. The short ballot idea is a theory. It emanates from some college professor, and it is trying to eliminate three-fourths of our officers from the ballot. Why not eliminate them all, and let the President of the United States appoint all our officers? The claim is advanced for the short ballot that people will not take the time to vote a long ballot, but I say, gentlemen, if you get the right kind of men on the ballot there always will be votes enough to elect them, and when that time comes when we cannot trust the voters to select our officers, why then we will have to say that representative form of government is about to fail, and I am not ready to say that, and I insist it is our duty here, gentlemen, to stay by our old Constitution on this proposition. I have not heard any demand for a change until I came down here. Another thing that has been demonstrated, that the selection of our appellate judges from the circuit bench by the Supreme Court is not the best way to select judges, because those judges that are selected that way are in a way responsible to the appointing power, and I say the allegiance of the officers should be to the Commonwealth, and not to the appointing power, and you men all know how the appointing power is

made up. If we go on and on, eliminating all the offices, all the public offices, and centralizing our government, let the Governor appoint all the officers, and then you will see we have raised up a demand for such things as the newspapers point to today, that is the I. and R., that is what we are drifting to, when you are cutting out all the elective offices. If you cut out all these elective offices, you will get your officers elected too far away from home, and short ballot or not, it has this tendency, and I appeal to you as men representing your various districts to sustain this old provision of the Constitution.

Mr. GORMAN (Cook). A question of information, Mr. Chairman. What considerations moved the committee to reject this proposal? After which explanation, I sincerely trust we will vote immediately and intelligently upon the question.

CHAIRMAN TRAUTMANN. In answer to the question of the delegate from Cook, I wish to say that when this section was under consideration by the Committee, an amendment was offered to provide for the appointment of all State officers except the Governor, the Lieutenant-Governor and the Auditor, who was to be elected by the legislature. That provision was defeated in the committee on a vote of four to one. The next proposition was that all such officers be appointed by the Governor and subject to removal by him, except the Auditor, who should be subject to removal by the Legislature, and that was defeated. Then the provision was offered that these four officers, leaving out the Auditor, should be appointed by the Governor, and that was defeated; then this proposition was offered the same as it is this morning, as paragraph two of section one, and that was defeated, and then the request was made that this committee should report out the proposition as a separate proposition, asking it be put on the ballot as a separate proposition, and the committee agreed to do that unanimously.

Mr. HAMILL (Cook). I wish to offer an amendment to the amendment. After the word "that" in line one, insert "after the expiration of the respective terms of those then in office".

Mr. Chairman, I offer this amendment for the purpose of avoiding the criticism of the gentleman from Bond (Lindly) with, which I have some sympathy. If the section be allowed to stand, in its present form, then members of the General Assembly would hold over the heads of such officers such a threat as is suggested, and that should be avoided. The section will read, with the amendment I have offered, as follows: "The General Assembly may by law provide that after the expiration of the respective terms of those in office, the Secretary of State, Attorney General, Treasurer and Superintendent of Public Instruction, or any one or more of these state officers be appointed by the Governor", and so forth. I will suggest, Mr. Chairman, that the debate will be expedited if the remarks, if any, be directed to this amendment until it is passed and then the general subject be taken up.

Mr. TRAEGER (Cook). I believe every delegate has heard sufficient debate on this subject, and I therefore move you that debate be now closed.

Mr. HULL (Cook). As the mover, I am entitled, I think, to close debate.

The gentlemen from Bond (Lindly) urged as an objection to the adoption of the amendment that it would lead to sandbagging tactics in the legislature. The gentleman from Cook, Mr. Hamill, has offered an amendment to obviate that difficulty, I do not know whether it would entirely obviate it or not. It might not. It is conceivable that there might be bills proposed in the legislature to take certain of these executive offices out of the elective class and make them appointive offices at the end of the term of the then incumbents, and what I wish to say is just this: that I think the objections that have been offered by the gentleman from Bond discloses really when it is fully considered, the soundest reasons for the resolution itself, which is jobs, jobs. That is the reason for the opposition to these appointive offices. The more you create of elective

offices, the more you create ambition to occupy those offices, and every man who occupies an office of that kind wishes to succeed himself, and he considers it necessary to have an organization for the purpose of succeeding himself. As you increase the appetite for jobs, you simply increase the spoils system by an ever-increase in the elective offices, and anybody who knows anything about politics knows in his heart that the spoils system absolutely discredits our public life. I really believe that the gentleman from Bond has disclosed the soundest reason for this change, and I hope it will prevail, or the amendment will prevail.

CHAIRMAN TRAUTMANN. The question is on the motion to close debate.

(Motion prevailed.)

CHAIRMAN TRAUTMANN. The question is on the amendment of Mr. Hamill, which amendment provides that this shall not apply during the term for which these officers were elected.

(Amendment lost.)

CHAIRMAN TRAUTMANN. The question now is on the motion of the delegate from Cook, Mr. Hull, that section one be amended as it appears in Proposal 370,

(Motion lost.)

Mr. HAMILL (Cook). I offer an amendment to section one: "The General Assembly may by law provide that the Superintendent of Public Instruction be appointed by the Governor, a majority of the Senators elected concurring therein by a yea and nay vote."

You will observe, gentlemen of the Convention, that the amendment that I now offer singles out one single officer covered by the amendment offered by the gentlemen from Cook, Mr. Hull. It has occurred to me during the debate there were several questions involved; there are a number of officers mentioned.

(Amendment lost.)

Mr. HAMILL (Cook.) I now offer a second amendment: "The General Assembly may by law provide that the Secretary of State shall be appointed by the Governor, a majority of the Senators elected concurring therein by a yea and nay vote."

(Motion lost.)

Mr. HAMILL (Cook). I now offer a third amendment: "The General Assembly may by law provide that the Attorney General be appointed by the Governor, a majority of the Senators elected concurring therein by a yea and nay vote."

(Motion lost.)

Mr. HAMILL (Cook). Mr. Chairman, I now offer a fourth amendment: "The General Assembly may by law provide that the Treasurer be appointed by the Governor, a majority of the Senators elected concurring therein by a yea and nay vote."

(Motion lost.)

CHAIRMAN TRAUTMANN. It has been moved by the delegate from Madison that section one be adopted.

(Motion prevailed. Section one adopted.)

CHAIRMAN TRAUTMANN. Section two: the words "or appointed" was added in line two, and the term was changed from two years to four years. That is the only change. Some words were taken out of the present section in order to make that change.

(Section two adopted.)

CHAIRMAN TRAUTMANN. Section three. The only change is that it leaves out the last sentence with reference to State Treasurer, and his term is changed from two to four years.

Mr. SHUEY (Coles). I move its adoption.

Section three adopted.)

CHAIRMAN TRAUTMANN. Section four is the same as in the present Constitution.

Mr. GANSCHOW (Cook). I move its adoption.

(Section four adopted.)

CHAIRMAN TRAUTMANN. Section five, the age of the Governor was changed from thirty to thirty-five years, found in line two, and a requirement that he be a resident for ten years instead of five.

Mr. WHITMAN (Boone). I move its adoption.

Mr. MILLS (Macon). I have an amendment to offer to section five: "Amend section five by inserting after the word "Governor in line two, the words, "who shall not be an American-born "citizen", cut out the words "of the United States", so the section as amended would read: "No person shall be eligible to the office of Governor who shall not be an American-born citizen and Lieutenant-Governor, who shall not have attained the age of thirty-five years, and been, for ten years, next preceding his election, a citizen of this state. Neither the Governor, Lieutenant Governor, Secretary of State, Attorney General, Auditor of Public Accounts, nor Superintendent of Public Instruction shall be eligible to any office during the period for which he shall have been elected."

The only material change in this section five is that I believe the time has arrived when the Governor and the Lieutenant-Governor of this State should be American-born citizens. I had a proposal of that kind. We have had a little experience in Illinois and I do not believe that we want a duplication of that experience. I believe the time has come now to put native born citizens, American citizens, in these two places.

Mr. DEYOUNG (Cook). It seems to me it leaves much to be desired. When you say "American-born citizen" that may mean anybody from the North Pole to South America. One born in the Argentine Republic is an American citizen; and, another thing, striking out the words "citizen of the United States." A subject of a foreign country might be born in the United States and not be a citizen of the United States. Your proposition would permit the son of an Ambassador of a foreign country, provided he were born in the United States, to become Governor, simply upon citizenship in the State of Illinois, and I do not think you should strike out the requirements of citizenship in the United States. The amendment as proposed I do not think should be adopted for that reason.

CHAIRMAN TRAUTMANN. The question is on the amendment of the delegate from Macon to section five.

(Amendment lost.)

CHAIRMAN TRAUTMANN. The question is upon the motion of the delegate from Boone that section five be adopted.

(Section five adopted.)

CHAIRMAN TRAUTMANN. Six is the same as in the present Constitution.

Mr. CARLSTROM (Mercer). I move its adoption.

(Section six adopted.)

CHAIRMAN TRAUTMANN. Section seven is the same as in the present Constitution.

Mr. TRAEGER (Cook). I move the adoption.

(Section seven adopted.)

CHAIRMAN TRAUTMANN. In section eight there is a change made. At the present time the Governor can issue a proclamation calling the General Assembly together in special session and stating in that proclamation for what purpose, and that may not consist of any other subject. The object of this change is to allow the Governor, after the first proclamation has been sent out, to issue another proclamation, one more, either before or during that special session. It can contain more than one subject matter, but he can only issue one supplemental proclamation. At the time Governor Deneen was Governor there was a regular session and two special sessions at the same time, and there was a special session following another in close succession, and the idea was to obviate that.

Mr. SHANAHAN (Cook). I move its adoption.

(Section eight adopted.)

CHAIRMAN TRAUTMANN. Section nine is the same as in the present Constitution.

Mr. TRAEGER (Cook). I move its adoption.

(Section nine adopted.)

CHAIRMAN TRAUTMANN. Section ten is the same.

Mr. PADDOCK (Sangamon). I have an amendment to section ten. Amend by adding on page three, section ten, after line six, the following: "Provided, however, that the appointment of notaries public need not be confirmed by the Senate." I think the members of the Senate will agree with me that no good purpose is accomplished by affirming appointments of notaries public.

Mr. SHANAHAN (Cook). I move the adoption of section ten with the amendment.

(Section ten adopted.)

CHAIRMAN TRAUTMANN. The next is section eleven. There was a part of a sentence added, commencing in line two and ending in line three. It was deemed advisable to put that language in, because it seems as if under the present Constitution it did not cover that situation, that in case the Senate is not in session when an Act creating an appointive office takes effect, and if that Act passed does not provide the Governor shall appoint at the recess of the Senate, there may be some question whether he would have that power. For instance, the Public Utilities Commission was not appointed until December, 1913, but that Act specifically provided for that, but in case the Act does not provide, there was no provision in the Constitution, and that is the reason this was added.

Mr. SHANAHAN (Cook). I move the adoption of section eleven.

(Section eleven adopted.)

CHAIRMAN TRAUTMANN. Section twelve is the same.

Mr. GANSCHOW (Cook). I move its adoption.

(Section twelve adopted.)

CHAIRMAN TRAUTMANN. Section thirteen, the words in italics have been added with reference to the granting of pardons and reprieves, "upon such conditions and with such restrictions and limitations as he may think proper;" that was added because it was deemed advisable that the Governor be permitted to grant conditional pardons if he saw fit.

Mr. GANSCHOW (Cook). I move its adoption.

Mr. MICHAELSON (Cook). I offer an amendment, Mr. Chairman. Strike out the words in line two and three, "upon such conditions and with such restrictions and limitations as he may think proper."

I make this amendment, Mr. Chairman, with the idea in mind that I believe the Governor has sufficient pardoning power at the present time, and that this additional power might prove at some future time to be a very dangerous addition, putting arbitrary power in the hands of the Governor over men who may have committed crime which in his judgment was pardonable, so far as he is concerned, but which might work a great injury upon the community, by criminals being pardoned indiscriminately. I think this a very dangerous addition, and the addition may work great harm upon the community for that reason. Mr. Chairman, I move to strike out those words and leave the section as it is in the Constitution of 1870.

Mr. MILLER (Cook). I think if the delegate from Cook will read this carefully, he will see that this proposed amendment does not in any way lessen the present power of the Governor to grant pardons.

Mr. MICHAELSON (Cook). I say it increases that power.

Mr. MILLER (Cook). It does not increase the power of the Governor to grant pardons. He already has that power. This would simply give him the right to grant less than an unconditional pardon. At the present time, if the Governor wants to pardon a man, a pardon must be unconditional, and that might lead to a bad condition which might be remedied if the Governor had the right to issue a conditional pardon, where the man might be reincarcerated if he did not live up to the condition of his pardon, and that is the purpose of the amendment. Instances were cited before the committee where the Governor had issued unconditional pardons, and

where if he had the power to issue conditional pardons, a man might be reapprehended.

Mr. MICHAELSON (Cook). It seems to me this puts the pardoning power of the Governor on a par with the parole law. So many criminals are parolled and never apprehended and are the cause of increased crime. I do not know how it is downstate, but it is so in Chicago. Those criminals who are put on parole by the pardoning board are subject to the approval of the Governor, that is true, but this clause would place that power in the hands of the Governor. Hundreds of criminals are turned loose every year in Chicago to re-enact the deeds and work for which they were sentenced originally, and I think this is a system that ought to be done away with.

Mr. WALL (Pulaski). I cannot understand from reading this section how any delegate in this Convention cannot at once see this is a restriction on the power of the Governor. I think it is wise that it should be in here. It says "the Governor shall have power to grant reprieves, commutations and pardons, after conviction, for all offenses, upon such conditions and with such restrictions and limitations as he may think proper, subject to such regulations as may be provided by law relative to the manner of applying therefor." Now, this steps in and says that such conditions, that such restrictions and limitations as he may think proper—it means before he can grant an unconditional pardon—now, he can say to a man, "I will grant you a pardon, but surround you with restrictions and limitations as may seem best under the circumstances of your case." It does not extend his power. I think it is wise this should go in there and he be left the right to pardon upon such conditions and restrictions as he may see proper.

Mr. MICHAELSON (Cook). Isn't it a fact that when the pardons board turns loose a criminal, that he is turned loose with restrictions and under restrictions?

Mr. WALL (Pulaski). No.

Mr. MICHAELSON (Cook). That he shall report to his parole officer monthly.

Mr. WALL (Pulaski). Those restrictions are these which under this section are regulated as the law provides. Now, these words in italics do not extend the Governor's rights to grant a pardon otherwise, those still exist, but this is a restriction and condition on it.

Mr. MICHAELSON (Cook). It does not mean anything.

Mr. WALL (Pulaski). It means whatever he may see is proper.

Mr. MICHAELSON (Cook). It means when a criminal is turned loose, that does not mean anything.

Mr. GORMAN (Cook). I think that the delegate from Cook who offered the amendment is correct in the apprehension that he feels this will let down the bars for innumerable pardons that would not otherwise be granted. It is a very difficult thing now to obtain a pardon, but if the Governor could give a conditional pardon, then you would throw into the hopper of politics the possibility of granting pardons on a vast and extensive scale. I think the Governor would be appealed to to permit men to go out upon a temporary pardon, if you would call it such, with the result that many men who are now incarcerated for heinous crimes, and will be in the future, would be out on a temporary leave who otherwise, under the provisions of the present Constitution, cannot obtain any pardon at all. I think the fears and misgivings of the delegate are well taken, and that these words ought to be stricken from section thirteen and the whole section adopted as it appears in the Constitution of 1870.

Mr. DUPUY (Cook). I agree with the observations made by Judge Wall and at the proper time I will offer an amendment, by inserting the words "either unconditional or," so the section would read, "The Governor shall have power to grant reprieves, commutations and pardons, after conviction, for all offenses, either unconditional or upon such conditions and with such restrictions and limitations as he may think proper, subject to

such regulations as may be provided by law relative to the manner of applying therefor." I think those words are necessary in order to make this mean what the committee intended it should, and in order that there shall be no misapprehension about the powers of the Governor to issue an unconditional pardon. I think these words should be inserted, and shall move to insert them when the present motion is disposed of.

Mr. TAFF (Fulton). What did the committee have in mind that under this section, when it said the Governor could grant an unconditional pardon? I wanted it for the purpose of the record, whether or not these words would make it necessary for him to grant pardons with restrictions and thereby eliminate the possibility of the unconditional pardon?

CHAIRMAN TRAUTMAN. The committee was of the opposite view. In the original section he had the right to grant an unconditional pardon, and this is to simply give him additional power to grant one conditionally.

Mr. TAFF (Fulton). With these words in there, is it the opinion of the committee that he could grant an unconditional pardon?

CHAIRMAN TRAUTMAN. Yes.

Mr. TRAEGER (Cook). I am in favor of the amendment introduced by the delegate from Cook (Michaelson) because I do not see how we are going to improve conditions by the conditional clause placed in the old section. We have got to take into consideration the largest cities. Unfortunately, I want to say to you now, that the trouble in the city of Chicago is not so much who we send to the penitentiary, but those who are pardoned. The law is lax on that at the present time, and it should be made stricter. A man who is sentenced to the penitentiary for a crime should serve his sentence, in my opinion. We are molly-coddling around playing politics and releasing from the confinement of the penitentiaries of this State men for whom the county has spent thousands of dollars to send them there, and they are hardly confined to their cells at Joliet when somebody will get busy and have them removed from that institution, and as soon as they are removed they are on the highways and on the streets in the city of Chicago, or any large city, and soon they are plying their old profession. We should be very cautious in placing in the Constitution anything that would make it easier for those men to get out from behind the bars. They are hardly there before they are at liberty again, and we should vote in favor of the amendment proposed by the delegate from Cook.

Mr. SUTHERLAND (Cook). If I am correctly advised, the whole official force of the Board of Pardons and Paroles now operates through the hands of the Governor. That is to say that board sits in an advisory capacity in a technical sense and its findings have to be confirmed by the Governor before taking effect. That board does not put upon parole except under certain conditions and restrictions which have to be lived up to by the person released, and the Governor exercises his power of commutation subject to those conditions. I am not clear as to the necessity of the italicized words in section thirteen, and am rather disposed, unless an explanation is given, to support the amendment offered by the delegate from Cook.

Mr. GREEN (Champaign). Mr. Chairman, it is so evident that the committee of which I was a member should set itself right before the delegates with reference to the insertion of these words in italics, that I wish to take up your time for a minute to make an explanation. The power of the chief executive to grant reprieves is a very complicated and very little understood and a very little exercised power. I had nothing to do with suggesting this amendment, but as soon as I observed it I was decidedly for it, I mean the amendment to the old Constitution, because I had this experience: A man was convicted of perjury in connection with the sale of intoxicating liquors, and the jury in the verdict recommended that he be tendered to the mercy of the court, which means nothing, but they had some notion that the court could parole him. We presented an application for pardon, but under the statute he was not subject to pardon for one year. There was no question about the desires of the jury, eight members of the jury signing a request that he be pardoned, and there was no question

but that he should be, but the Governor was uncertain as to his power to grant the reprieve. I do not know exactly what that means in Illinois; the word comes down from the old common law. We finally went back through an opinion of the Attorney General and had the Governor follow the precedent of the ancient common law and grant a reprieve. Everybody agreed that there should be a reprieve, and he granted a reprieve for one year, and at the end of that time it should be an absolute pardon. It was such a clear case demanding executive clemency that the Governor decided it should be done. He was not sure of his power; however, he did it, and the community was satisfied.

Now, this amendment meets a great many of the objections urged to the parole law. I have always felt that the verdict of the jury was the best judge of what the sentence should be. You made it necessary for a parole system by your Constitution, because there was no way by which any conditions could be imposed upon a pardon by the Governor himself. It must be an absolute, unconditional pardon, or denied, and the common instincts of humanity demand that there be times when executive clemency should be extended, and no man would say that we want to go back centuries and centuries to a time when the pardoning power did not repose somewhere, and every man should serve out his term regardless of what it should be, because long before we had a nation there was a pardoning power in the chief executive, and we simply wrote into our Constitution where it should be reposed. Nobody would wipe out the power of pardon. If we enable the chief executive by the Constitution to have some elasticity in the exercise of this high prerogative we will be much better able to handle the whole parole system, because the chief executive with the power to impose conditions upon the exercise of executive clemency is in a much better position to do absolute justice. It may be that the conditions would require the consent of certain public officials, or a number of things, or he might lay down certain rules. Now we have the parole system with its complicated machinery. If we believe the chief executive should exercise this merciful prerogative, we ought to make it possible for him to do so. I am sure when you understand that this was written in here to restore to the chief executive some elasticity in the exercise of this great, merciful prerogative, you will agree it is better to have it repose there than to have the legislature create this complicated machinery for a parole system.

Mr. TRAEGER (Cook). The records of the State's Attorney of Cook county show that in one year he had sent over 351 men to the penitentiary and that 380 odd were paroled. I do not believe the parole law works well when the records will show that there are thirty odd more men paroled in one year than there have been convicted and sent to the penitentiary. Gentlemen, I will leave it to you to decide whether that has worked for the best interest of the city of Chicago or any other city. I have had some practical experience as the Sheriff of the county for four years and as Coroner of the county for four years. I have had a great deal to do with the affairs of Cook county, especially on the criminal end, and I want to again say to you that whatever you may pass, to use the best protection that you may be able to use, as delegates to this Convention, to keep behind the bars those criminals that are preying on the public in this great State of ours.

Mr. GREEN (Champaign). You would not abolish the pardoning power?

Mr. TRAEGER (Cook). Oh, no; I am in favor of that. I am willing to trust any Governor that the people of this State may elect to use his own good judgment to pardon when he feels it is absolutely necessary.

Mr. GREEN (Champaign). That being true, isn't it your judgment it would be better to give the Governor some of this elasticity rather than compel the legislature to build up this complicated parole machinery and stay by the system we have?

Mr. TRAEGER (Cook). I believe that the Governor should be given that power.

Mr. GREEN (Champaign). That is what this does.

Mr. TRAEGER (Cook). I am talking against the fact it has to go through a powerful lot of machinery and the Governor has to stand it. If this is an additional power, I did not so understand it.

Mr. GORMAN (Cook). May I ask the gentleman a question: Don't you think that with this language added to the present section, that political considerations and obligations would lay down the conditions of pardon, rather than the Governor?

Mr. GREEN (Champaign). Of course, it all depends on the man, but I would rather trust the Governor whose conduct is watched, than to delegate this complicated parole machinery as it now exists.

Mr. MICHAELSON (Cook). What assurance have we that the parole law will be abolished?

Mr. GREEN (Champaign). Absolutely none, except that it seems to me it would be utterly impossible to abolish the parole law and still keep our state in the vanguard of those states having proper respect for the common instincts of humanity, unless we gave this power to the Governor himself.

Mr. MICHAELSON (Cook). Does not this really create two parole boards?

Mr. GREEN (Champaign). That is not my understanding. It would give him power to do things that are now done by the Parole Board.

Mr. MICHAELSON (Cook). It is twice as elastic.

Mr. GREEN (Champaign). I think you perpetuate this parole machinery the way it is now.

Mr. SHANAHAN (Cook). If these words in italics were in the present Constitution, would you say it would have been necessary to pass the parole board law?

Mr. GREEN (Champaign.) I think it made it necessary.

Mr. JARMAN (Schuyler). Isn't this such a limitation that it does not permit the Governor to grant a pardon or reprieve except upon conditions?

Mr. GREEN (Champaign). In my opinion as a lawyer, granting powers to an executive is not a limitation. The purpose of a Constitution may be to limit the General Assembly, but there is no power in the executive except such as is affirmatively given to him. There will be some conditions upon which the exercise of this power, namely, that he would act on no petition for pardons that did not have the consent of the trial judge, or it would require that he meet some condition before the exercise of executive clemency, but his pardon would be unconditional unless he saw fit to attach conditions himself.

Mr. JARMAN (Schuyler). Do you think it is sufficient to place in the the words, "unconditional or"?

Mr. GREEN (Champaign). In my judgment, it means just the same thing.

Mr. MILLER (Cook). I think some of the delegates from Cook, as I fear the delegate who moved the amendment, have confused the supposed evil effectes of the parole law with the undoubted ill effects of the adult probation law. We all from Cook county, I take it, are in favor of punishing some of the criminals up there, in the hope that that will decrease their practices to a certain extent, but the great trouble that has occurred is the result not of the parole law, but of the probation law. The Chicago Crime Commission has given this matter of crime in Chicago a vast amount of study. Its report is this: Now, I want to say the purpose of the Chicago Crime Commission, one of the purposes is to urge some adequate punishment for crime. They are not standing for the release of criminals, they are advocating their punishment, and they report that only rarely does a man who has been paroled come again before the court on a criminal charge, but that the great number of those who come in court a second time are those who have been put on probation by the courts. Probation was designed as a method by which first offenders might escape the stigma of a penitentiary offense. As it is applied, it is a farce. The Chicago Crime Commission report in a single year more than 4,000 criminals were put

on probation by the Courts, and a great number of them were men who had not committed their first offense, but were old criminals, whereas the men who come before the courts and who have been put out on parole rarely come before the courts a second time. I think we ought not to confuse this issue. According to the report of this Commission, there is very little damage done and a vast amount of good is done, by the parole law, and there is a vast amount of damage done and very little good done, by the adult probation law. For instance, they say a person is not released on parole until arrangements have been made for his proper employment away from criminal influences, and a violation of the parole agreement subjects him to return to prison for future confinement. A person on probation is released on his good behavior on terms fixed by the court. Violations subject him to sentence in a correctional institution. A parole is granted only after incarceration for at least a year in a correctional institution, and a final discharge is usually given if the parole agreement is observed for twelve months. The parole law is a humane law and it does reduce crime, but the adult probation law, which is sometimes confused with the parole law, is the thing that is doing the damage in Cook county today in the administration of criminal justice.

Mr. MICHAL (Cook). A great deal has been said about conditions that obtain by reason of the workings of the adult probation law. The distinguished delegate from Cook county, Mr. Traeger, has cited the instance of a judge releasing on probation 380 prisoners. I happen to know that judge, and so do most of the Cook county delegates in the Convention. That judge was Judge Thomas Windes, one of the most eminent judges in this state. I have given some attention to this matter, and particularly since the Chicago Crime Commission came into being, and I have found that Judge Windes released upon probation all whose cases came strictly within the letter and spirit of the probation law. He did not arrogate to himself any rights that the law did not specifically grant to him, but when an investigation was made as to the effect of this alleged wholesale probation system, it was ascertained that but two of the 380 released on their probation came again before the court. I say that is commendable. I say that speaks well for the law. I say that upholds the dignity of the law, and it certainly redounds to the honor and credit of that distinguished jurist, who notwithstanding the hue and cry raised against this asinine provision of the law, as termed by the press, yet saw his duty by what the legislature had put upon the statute books.

Now, to get down to the Chicago Crime Commission. We find they are making an exhaustive research as to the causes and conditions of crime in Chicago. I don't know the source of their income, where they derive money to pay this vast expenditure, where they get the money to pay for the services of the distinguished counsel that they employ, but I do know that a great many members of the Chicago Crime Commission absolutely and utterly fail in their duty to the communities in respecting to evading jury service when called upon to answer jury service.

Chicago is not a bad place at all. The way you hear some of our delegates come around here and talk, you would think you would have to have a cordon of police to escort you from block to block of that great city. Chicago is a good city. It is lawful and law-abiding, it is as lawful and law-abiding a city as you want to see, and the best evidence is that the great Republican National Party have seen fit to hold their convention there, and certainly they would not want to hold it with train robbers, thieves and murderers.

Mr. Chairman and gentlemen, I have no patience with any of this talk as to the fact that crime is rampant in Chicago. Notwithstanding the fact that I oppose the present city administration, I must give credit to that administration for having as capable a chief of police as ever sat in that big office in that big city of Chicago, but you find this condition, that when this great chief of police asks the citizens for support to give him a bunch of police officers, you will find the cry that it means an increase in taxation. Colonel Garrity is able to cope with the crime conditions that

obtain in Chicago, and to meet them at every turn in the game, but I say that it devolves upon the citizens regardless of politics, regardless of factional affiliations, to give that man undivided, heartfelt, honest support, and not try to unload because of political spleen, or want to vent on the administration in power. Chicago is a good town. It is a whole-souled town, and the safety of its citizens is taken care of as good as anywhere in this world. The judiciary is as capable as you will find anywhere, administering the criminal law of any commonwealth, but it seems insidious attacks are being made on those judges by people who do not want to follow what is upon the statute books.

I say it is the inherent right of the man who stands before the bar of justice to avail himself of every law. I think if his lawyer is derelict in that duty he is fit to be disbarred. I think, Mr. Chairman and gentlemen, that this section thirteen, as reported by the committee, and as amended by the distinguished delegate, from Cook, Mr. Dupuy, adding the words "unconditional or" ought to be adopted. I think the delegate from Campaign has said that we ought to give all power to our chief executive. What have you got him there for? I do not know of the abuse of the pardoning power anywhere, except the Governor of one of the Carolinas, who went on a wild hunt in the penitentiaries and reprieved and pardoned every one he thought fit, and that man has been repudiated just because of the usurpation of that power, but I have faith in the election by the electorate of this State of capable men who understand fully the responsibility of their office, and who will not run riot with the power such as is given here. I am for the majority report, as amended by the gentleman from Cook. (Applause.)

CHAIRMAN TRAUTMANN. The question is on the amendment of the gentleman from Cook, Mr. Michaelson, striking out all the words that appear in italics.

(Amendment lost.)

Mr. DUPUY (Cook). I would like to present this amendment: After the word "offenses" in line two, insert the words, "either conditional or," so that line two would read "and pardons, after conviction, for all offenses, either unconditional or upon such conditions"—it seems to me, Mr. Chairman, those words are necessary to make the section plainly state in unmistakable terms what the committee intended it to mean. I can see this would be a limitation without these words, rather than an extension, and I would like to see it adopted.

CHAIRMAN TRAUTMANN. The question is on the amendment offered by the delegate from Cook.

Mr. JARMAN (Schuyler). I do not know how the members feel with reference to this amendment, but I for one think that this amendment is absolutely necessary to carry out the intentions of this committee. In the first place, the Governor has no power to grant a pardon unless it is given to him by the Constitution, because the power to pardon is "upon such conditions and with such restrictions and limitations"—and so forth. I think that is all the power he has under this provision of the Constitution, and I understand we want to give him power to grant pardons unconditionally. I therefore think this amendment is highly necessary.

(Motion prevailed.)

Mr. HULL (Cook). I will offer an amendment. I was impressed by something the gentleman from Cook said about the italicized words, and I think some fair question was raised by him, the words, "upon such conditions and with such restrictions and limitations as he may deem proper." I think there should be substituted the words, "as prescribed by law."

Mr. MICHAELSON (Cook). I am against the insertion of any words to make the power of the Governor greater in this regard than the present Constitution gives him. I think it is wrong, and that some day if we live long enough we will be in a position where we will be sorry we put it in.

Mr. HULL (Cook). I interpret his amendment to arise out of the fact that this was leaving him an absolutely unregulated discretion with respect to the conditions and restrictions and limitations, and that perhaps the objection would be met by putting in the words, "and as may be prescribed by law." I judge the gentleman thinks it would not answer his objections.

Mr. WALL (Pulaski). I move the adoption of this section with the amendment offered by Judge Dupuy (Cook).

Mr. SUTHERLAND (Cook). As one who supported the delegate from Cook to strike out those italicized words in section thirteen, I wish to say that I think it would cure that situation, or any doubt arising from those words "entirely," and I hope Mr. Hull will offer that amendment.

Mr. WALL (Pulaski). The motion is to adopt this section as amended by Judge Dupuy. I insist on the motion.

CHAIRMAN TRAUTMANN. Will you yield to allow Senator Hull to offer another amendment?

Mr. LINDLY (Bond). The gentleman has the right to offer his amendment.

CHAIRMAN TRAUTMANN. The point of order is well taken.

Mr. HULL (Cook). Amend section thirteen by striking out the words "as he may think proper," and insert in place thereof "as may be provided by law."

Mr. SHANAHAN (Cook). I doubt the wisdom of that change. At the present time the Governor has the right of absolute pardon. For a number of years pressure was brought to change the law to provide for the parole system and the indeterminate sentence, so that men would not be sent under a definite sentence to the penitentiary, and to be released they would have to receive an actual pardon from the Governor. Had these words in Italics been contained in the present Constitution, it would have been unnecessary to have passed the indeterminate sentence act and the parole law, because the Governor then could have provided for a limited pardon, stipulating in the pardon the conditions. If you now amend it by striking out the words "as he may think proper," and substitute "as may be provided by law," you are tying the hands of the Governor in granting limited pardons, and I take it that was the purpose of putting in these words, in order that the Governor might grant limited pardons, and not absolute pardons. If I am wrong, I will be pleased to hear from the gentleman from Cook.

Mr. HULL (Cook). I do not speak as an expert on criminology. I have very little acquaintance with the criminal law. I was simply impressed by the point raised by Mr. Michaelson that these italicized words are a discretion in the pardoning powers which had possibilities of political abuse, and such discretion might very well be regulated by law, and that is the only reason I offered it. I am not keenly interested in it, and if those who know about it believe it is a mistake, it should be voted down. I offered it to get a discussion on that particular point.

Mr. DUNLAP (Champaign). I have spent very little time about the criminal court, and know little about this proposition, but it appears to me that if you give to the Governor this unlimited power to grant pardons on any conditions that he may think proper, that you are opening up a line of petitions for pardons that is unlimited, and that you will have all sorts of quasi-pardoned criminals in this State on different paroles, and all at the option of the Governor, and anyone who has been around the Governor's office knows the importunities that come to him for pardons. In almost every case there are some reasons why, in the opinions of those who ask for the pardons, that the pardons should be granted. If you are going to make the Governor's office more undesirable than it is—it is hard to get Governors to take that job now—then you leave this thing open, but seriously, I think we will make a mistake to leave this in this unlimited way. I voted for the proposition to strike it out. I believe when a criminal is sentenced by judge and jury, if there is no good

reason that man should be pardoned, absolutely he should not be pardoned at all, and the Governor would have that right with the italicized words, and if you are going to put those in, it seems to me you are opening up the possibilities of political intrigue and political influence and all sorts of things that may be brought to bear upon the Governor. They will ask for absolute pardons, and if they cannot grant that, they will ask for a conditional pardon, anything to get their friend out of the pen. I do not know much about Chicago affairs, except as I read them in the paper, but if I read aright, a great many of these crimes that are committed in Chicago are by ex-convicts, a great many of them are, and they have gotten out of the penitentiary in one way or another. Now, we are just opening up a channel for more of that sort of pardoning, and I am in favor of the amendment offered by the delegate from Cook.

Mr. CUTTING (Cook). The granting of a conditional pardon is an entirely different thing from a pardon. A conditional pardon does not restore a man to his rights of citizenship. He is deprived of his ballot. He cannot hold any office of trust under the government under which he lives, or the condition may be that he shall never enter the state, and if so, he will be returned to the penitentiary. It is a wide power to give, and I am rather in favor of giving it, because in many instances it is appropriate punishment, so to speak, for the crime which has been committed. I simply wish to call attention to that fact without arguing the case further.

Mr. GREEN (Champaign). The amendment now is to strike out the words "as he may think proper", and substitute "as the legislature may provide by law".

CHAIRMAN TRAUTMANN. Yes.

Mr. GREEN (Champaign). Gentlemen of the committee, let us try to be consistent. The very idea of allowing the legislature to prescribe conditions for the exercise of this executive function of pardoning is repugnant to the very theory of republican form of government. The pardoning power used to be in the king and nobody else. Under the republican form of government, it was necessary to repose it somewhere, and they put it in the chief executive. We have had altogether too much now of the commingling of the functions of government between legislative and executive. The trouble and condemnation with the administration of the parole law comes when you allow the legislature to interfere with this great executive function. It is repugnant to every lawyer's idea of the separation of power. Now, the executive exercises it as he may think proper, leaving it purely an executive function, and that is in harmony with the republican form of government, but you do not want to give the executive power to the legislature.

Mr. JOHNSON (Bureau). Let us read it and see just what it means: "The Governor shall have power to grant reprieves, commutations and pardons, after conviction, for all offenses." That is the present Constitution as I understand it.

CHAIRMAN TRAUTMANN. Yes. The amendment already adopted, "upon such conditions and with such restrictions and limitations as he may think proper"; in addition to that the amendment "unconditional". Now, everybody concedes, who knows anything about the functions and the powers of the Governor or the Executive Department in that regard knows that he has the right to pardon without giving any reason to anybody. Now, it is sought by the amendment offered by the delegate from Cook to put a limitation upon that full power, which would read like this, That the Governor shall have power to pardon unconditionally, but it must be according to law. In other words, he takes under that into partnership the General Assembly.

Mr. DUNLAP (Champaign). May I ask the gentleman a question?

CHAIRMAN TRAUTMANN. With his permission.

Mr. DUNLAP (Champaign). Are you not mistaken in saying this amendment suggested by the gentleman from Cook refers to full pardons?

Mr. HULL (Cook). The intention was to have it apply only to those conditions and restrictions and limitations.

Mr. JOHNSON (Bureau). But intentions do not get into the Constitution. I am talking about that proposition; the amendment means simply this, that we put a restriction upon the Governor and we say to him that henceforth he shall not exercise that great power of pardon, that he ask the General Assembly as to the terms and conditions. Not for a minute should we be willing to do that.

From the beginning of time, Mr. Chairman, it has been thought necessary that the power of unconditional pardon should rest in somebody, and in this state ever since we have had a constitution, it has rested in the Governor, and there is no power on earth which can compel him to state the reasons for his pardon, and yet he does it. It is accepted he should assign reason for it, and usually the petition for pardon is an appeal to the Governor's generous soul. It may not comply with the law of the land, but it appeals to him and it so happens his soul and his heart is touched, and he says "the rigors of the law must stand aside here, and I give this man a full pardon." Now, shall we put upon him some restrictions here? I think not, gentlemen, we ought not to do that. We all know that if the Governor shall abuse that great function of his in this regard and the people shall be advised that that is his attitude, of course his term of office will end when it expires by law. That is sufficient, I think. I am not in favor of putting any restrictions upon a man who is called upon to exercise the function of pardon without limitation. In other words, I mean a full pardon; as to the balance of it, I do not know whether it makes any difference or not, but if we go into that business of giving a pardon according to law, or as may be provided by law, then it seems to me it means this, a partnership between the General Assembly and the Executive Department of the State.

Mr. MOORE (Macon). May I be permitted to say a few words on this subject? It so happens I had the pardoning power in my hands in some years. I believe if you are going to grant the power to the Governor to grant an unconditional pardon at all, it ought to be entirely in his discretion. The legislature might pass laws of a general character, but in granting pardons, one is entirely guided by the individual circumstances of the case, and you would be tying the hands of the Governor very effectually if you undertook to say that he must grant that pardon according to some general law. The idea of the pardon is that the Governor shall have the power to abate the rigors of the law, and if you are going to grant the power to grant an unconditional pardon, he should be the best judge of the conditions under which the pardon should be granted.

Mr. MILLER (Cook). May I ask a question of the gentleman from Cook? Is there anything that would be accomplished by this amendment that cannot be accomplished at present under the parole law?

Mr. HULL (Cook). You are probably better advised than I am.

Mr. MILLER (Cook). It seems to me there was some confusion there, something accomplished by this amendment suggested by you that could not be accomplished under the parole law.

Mr. HULL (Cook). Mr. Chairman, as I said when I introduced this, I did not feel qualified to discuss the criminal law in any way, but I was impressed by the objection made by Mr. Michaelson, and I threw it into the hopper with the suggestion that some members of the Committee of the Whole would take a crack at it, and it is indifferent to me what disposition is made of it. If it commended itself to the Committee of the Whole, they would approve, and if not, they would not.

CHAIRMAN TRAUTMANN. The question is on the amendment of the gentleman from Cook, Mr. Hull.

(Amendment lost.)

CHAIRMAN TRAUTMANN. The question now reverts to the motion of the delegate from Pulaski that section thirteen as amended be adopted.

(Section thirteen adopted.)

Mr. LINDLY (Bond). I move we take a recess until 4 o'clock.

(Motion prevailed.)

Whereupon a recess was taken by the Committee of the Whole to Wednesday, June 2d, A. D. 1920, at 4:00 o'clock p. m.

4:00 O'CLOCK P. M.

The Committee of the Whole reconvened pursuant to recess.

Chairman Trautmann presiding.

CHAIRMAN TRAUTMANN. The next section under consideration is section fourteen. The only change made in that in lines three and four the words "to protect life and property." Are there any amendments?

Mr. GORMAN (Cook). I move its adoption.

Mr. MICHAELSON (Cook). I offer an amendment: "Amend section fourteen by striking out the words 'protect life and property'."

I move to strike out the words in italics which have been added to the old section fourteen of the Constitution of 1870. It seems to me, Mr. Chairman, that the insertion of these words, by which the power is handed to the Governor, will not work in the interest of the people. With this provision in the Constitution, the Governor might call out the troops to be used in any way that he sees fit. I have no objection to the Governor protecting life and property, or any other citizen if the State of Illinois protecting life and property, and every municipality in the State is organized to do that very thing, and we do not need the militia called out on any pretext to protect life and property as against the vested authorities of the municipality. This power could be abused and would be abused and would militate against the working man and for the owner of large interests and large property in times of labor trouble, in times of strikes, when labor is seeking the redress of grievances and is on strike for some reason or another, and the owner of the plant may apply to the Governor for troops, and on the pretext of protecting life and property, the Governor would send the troops and cause disturbances which otherwise would not be caused. I think it is unfair to put that power into the hands of the Governor.

The present Constitution is adequate, delegating to the Governor the power which he now has over the militia, and it would be wrong to give any further power to any one man over the lives and property of citizens. I object to those words and I move that they be stricken out.

Mr. HAMILL (Cook). Mr. Chairman, may I rise for information?

CHAIRMAN TRAUTMANN. You may.

Mr. HAMILL (Cook). The Constitution now provides that the militia may be called out to execute the law. The law, I assume, is enacted for the purpose of protecting life and property. If therefore either life or property protected by law were in jeopardy, I suppose that under the section as it now reads the militia might be called out. Might I inquire of some member of the committee what it was expected to cover by the addition of the words "life and property" not covered by the section heretofore?

CHAIRMAN TRAUTMANN. The reasons advanced by the committee for adding these words were that the committee had very serious doubts as to whether or not it would cover cases where the militia were called out, for floods or cyclones, whether appropriations made for that purpose were constitutional. That is the reason the committee added these words.

Mr. SNEED (Williamson). I rise to support the amendment offered by the gentleman from Cook. It strikes me that the reading of this section as amended by Mr. Michaelson is sufficient to allow the Governor or Lieutenant governor, if he is acting Governor, to take care of any exigency that might arise. I don't know the idea of placing in our Constitution a clause that would possibly mean the taking of the militia or those of our naval forces and interfering in matters other than the purpose of this section of the Constitution. It would be unfair to those who go to make up the militia of this State and to those who are in the naval forces of our State, a majority of whom come from the common people, to force them in an incident like the one alluded to by Mr. Michaelson, to interfere with the rights of their own people. This section under the old Constitution, it

strikes me, gives the governor power to execute the law in any event that might arise in this State. To my mind, gentlemen of this Convention, that is sufficient without opening the door whereby possibly some influence might enter in that would not be fair to the people of the State of Illinois, to the working people of the State of Illinois, and when I say the people, I mean the people as a whole. They do not ask any special rights, other than to be governed by the law of the State of Illinois, and whenever an application of that law is made, we feel that the law should so read that there will not be any opportunity that someone for reasons of his own would be permitted to take advantage and to create a condition that would make possible the use of the militia or naval forces of this State in a controversy.

Mr MICHAL (Cook). I feel that I must support my distinguished colleague from Cook, Mr. Michaelson. I am fearful that the words in italics in this section may be construed to saddle a liability upon the state in some form or other and this will assert itself by reason of the fact that in the railroad strikes of 1894 the city of Chicago was subjected to a great deal of litigation for damages caused to people who said their property was destroyed because they were not given adequate police protection. I am fearful that this section, or the words in italics, might be construed to guarantee protection, and that if for some unforeseen reason or another that protection was inadequate, or it came late, the State would be saddled with a liability for damages, and I am opposed to the inclusion of those words in italics in section fourteen.

Mr. SIX (Pike). I cannot conceive how any citizen of the State of Illinois could be otherwise than benefitted by the protection of life and property. The mere fact I may not have a title to the property does not mean I am not benefitted by its protection. These words were inserted in the report, I am quite sure, to meet the situation due to high waters along our rivers when it is necessary to call out an organized force to work under orders for the protection of thousands of lives. In that way crops are saved, cities are sometimes saved, great expense, with the possible results of looting and the consequences of disorder in any thickly settled community. I can see nothing but advantage to every citizen of the State by virtue of the protection of life and property. I see no danger with regard to the guaranteeing of rights which the last speaker has just suggested.

Mr. CARLSTROM (Mercer). I shall support the amendment. I believe this, with reference to the remarks made by the gentleman from Pike (Six) that life and property was protected in Illinois under this provision. All the protection we have for life and property in Illinois and in every other civilized State county is the protection afforded by the law. Property asks no other protection. That being true, the Governor has the power to call out the militia to execute the law when the authorities constituted to enforce the law cannot protect life or property by reason of their failure to enforce the law. Then both life and property will have all the protection under the language of the old section of the Constitution that we can ask the State to give to either. That protection which is afforded by both the majesty and dignity of the law and the State has the power to use its military forces for that purpose under the old provision of the Constitution, and I believe that it is as far as we ought to go in committing the military arm of the State to protect property. As to the question of public disaster, those instances have occurred in this State and the militia has been used and it has been used without objection. I understood the Chairman to say there is some question about the validity of the constitutionality of the appropriation to meet the militia in that character of service. There has been no question raised, when there is any public disaster in Illinois for the use of the militia, let us say, on any occasion of public disaster. I believe we are opening the door to a dangerous use of the militia of the State, not against those against whom the militia might be used, but as against the organized militia themselves. If the State can take the members and call them into service at the mere pittance of pay they get, it would create a situation that would keep every self-respecting man out of the militia, and that will be the effect of it. Any man who reads this and who has got good

judgment certainly will not enlist in the militia unless he is compelled to. I would advise a man against it. I say that frankly, if he is compelled to serve under a provision of this character. I believe it is dangerous to open a door to a situation under which no one can foresee or know. I think these words should be stricken out. I believe when the State of Illinois says that it will uphold the law by using the military forces if necessary, it thereby says it will give to life and property all the protection it is entitled to receive from the State, but there must be some provision in the future for the use of the militia to make necessary the addition of these words. I hope the militia of the State of Illinois will not be subject to use of this character, nor will the rights of the citizens be endangered for a purpose outside the law. I hope the amendment will prevail.

Mr. WALL (Pulaski). The purpose of the committee has been stated by the chairman in inserting the words in italics in this section. I think it should be retained. I differ very radically from the gentleman from Mercer who has just spoken with reference to the effect of the words in this section.

In the first place, under the present Constitution the Governor can only call out the militia to execute the law, to suppress insurrection and repel invasion. Necessarily, the calling out of an armed force to do either of these things now enumerated in the Constitution is for the protection of life and property. The very purpose of having the State militia is to protect life and property. It cannot be said that because this language is inserted, it is intended that property will receive a protection outside the law. The purpose of the State militia largely is to suppress insurrection, to execute the law, the Constitution says, and to repel invasion.

Now, let me give you, gentlemen, in this committee a startling and practical example of the effect of the present Constitution upon a condition of things which existed where I live and where the gentleman who sits to my right, Judge William S. Dewey of Cairo, lives, in 1912 and 1913 when we had high water. It is very proper for this reason that this clause be inserted.

Down there when every human being in the City of Cairo and Mound City was threatened with destruction by drowning, when the rivers were a foot or more above the tops of the levees, when everybody who had a two-story house moved into the second story, when a good many of the old and infirm and sick were moved out of town, it became impossible to get enough persons organized of our own people to protect this levee by building it higher, and it became necessary to have a force with authority to make everybody work, and have everybody go to work, so our sheriff summoned on a fictitious writ a great number of persons on posse comitatus, and we applied to the Governor for State militia, and it was two days before we got them, because he questioned his authority to send them, but finally we did get them and it was declared to be outside the scope of his authority, and this because there was no right to protect property and life, and that right ought to be given in this Constitution.

Now, then, as to its effect on labor disputes, upon troubles arising from foreign employees, what harm can it do when it says "protection of life and property?" As long as the civil authorities can protect life and property, there is no necessity for sending for the militia or for sending over here to the Governor and asking him to send a company of militia, because the civil authorities can control it, but if life and property are put in jeopardy for any cause and the civil authorities cannot control it, then the Constitution ought to provide this duty of the Governor to exercise his right to suppress insurrection, or the trouble whereby life or property is being destroyed by wholesale.

I can see no avenue whereby the abuse of power could be so exercised to be subversive of the rights and liberties of the citizens of the State. I know as a matter of necessity that the provision is necessary, even along the lines of overflowed rivers for the protection of life and property in those localities. I am therefore in favor of retaining these italicized words in this section, and adopted like it came from the committee.

Mr. SHANAHAN (Cook). I do not pretend to know anything about the militia, but I recall the incident mentioned by the delegate from Pulaski (Wall). On four different occasions in the last six or seven years, the citizens of this State in St. Clair county, Alexander, Pulaski and one other county, over on the Ohio River, requested the Governor to send the militia to protect lives and property of the people of those districts on account of the high water of the Mississippi and Ohio Rivers, and in 1917 the people of Charleston, Illinois and neighboring cities, Mattoon, to send the militia to protect the lives of the people in that section on account of tornado, a hurricane which destroyed almost completely both towns. At that time the Governor was in a quandary as to whether or not he had the right to call out the militia for that purpose. There was no question but that the lives of the people of those sections were in danger, and it was impossible for the local authorities to cope with the situation, and the Governor did send the militia on two occasions and everyone will admit that the militia did splendid service at the time and saved the lives of hundreds of people at the different points. There was some question of the right of the expenditure of the money appropriated for the maintenance of the militia at that time. Many thousands of dollars were expended at Washington, at Mound City, at Cairo, at East St. Louis, and at Charleston, funds that were appropriated for the maintenance of the militia, and I question what the court would have said had the matter been brought to the court. I doubt if the Governor or the authorities would have been allowed to expend the money for that purpose.

Mr. WALL (Pulaski). The Attorney General held that it could not be done when they were sent down to our place, but they were sent.

Mr. SHANAHAN (Cook). There may be considerable in what the gentleman says regarding the word "property," that they may be called out in the case of strikes and so forth, but I think it would do no harm and none would be hurt if the words "protect life" would remain; if those words were in there, then the Governor would have the right to call the militia to protect the lives of the citizens when these towns were in danger by high water and flood or devastation such as at Charleston; and for that reason, gentlemen, in order that there might be no question about the appropriation of funds for the maintenance of the general militia, I think it might be well to leave in the words "protect life" and omit the words "and property."

Mr. GORMAN (Cook). I offer this as an amendment: Strike out the words "protect life and property" and substitute therefor "in case of floods and conflagrations."

Mr. MICHAELSON (Cook). I have no objection to this amendment superseding my amendment. I can readily see instances mentioned where the calling out of the militia involving expense was the right thing to do. I do, however, object to leaving it open and at the discretion of the Governor to call out the militia on a pure pretext. If that language is definite, as in this amendment, I can see no objection to it, because that would cover the case in point as mentioned by Delegate Shanahan, but to leave it as it is now and generally, broadly to protect life and property, would be working in the opposite direction from which the committee possibly desired it should work. If there is a specific instance to be taken care of that is all right; to make it general is very bad, and I have no objection to substituting Delegate Gorman's amendment for mine.

Mr. MILLER (Cook). Mr. Chairman, I rise to speak on this subject, not because I am from Cook, but because I am on this committee. This is one of those instances where Cook county is not asking anything in particular.

The purpose of the committee was, as stated by the Chair, and nothing else. It seems to me that the Governor now has just as much power to call out the militia in case of any labor disturbances as he would have under this amendment. The Governor now has all the power in regard to suppressing insurrections and in regard to handling disorder that might arise in case of strikes. He has all the power he needs, and if I thought this would have the effect of broadening his power in that respect, I would be against it. The

purpose was, as stated, to protect life and property in case of disaster, not occasioned by a breach of law, limiting it to floods or fires is not sufficient. I remember a couple of months ago when, within a mile of my home in Cook county, there was a hurricane tearing down stores, tearing roofs off stores, and the home guard came out voluntarily and it was necessary that they should do so to protect property. Life was not in danger at the time they came out. Life was destroyed, but it was necessary to protect property from looting and other things. Now, it seems to me that there ought not to be any distinction, so far as this Constitution is concerned, between protecting life and protecting property. Of course, the protection of life is much the more important, but if the militia may be called out in case of disaster, a case not involving the breach of the law, it seems to me there would equally be a case where they might be called out to protect property. Take the case of the floods that the gentlemen have spoken of, and that was the very occasion for this amendment, I imagine that the loss of life in many of those instances was absent, but the necessity for protecting property was very great. I think the fear of the gentleman from Cook, Mr. Michal, is unfounded, that this may impose a liability on the State. There is at the present time a liability imposed on municipalities for permitting disorder resulting in the destruction of property, and it was under that statute, and it was that statute that was the basis of the litigation growing out of the railroad strike in 1894.

Mr. MICHAL (Cook). Do not those words in italics impose a duty on the Governor?

Mr. MILLER (Cook). Not at all. He is given the power to call out the militia in certain cases.

Mr. MICHAL (Cook). Suppose he does not?

Mr. MILLER (Cook). Suppose we strike out those words, and assume the Governor in his wisdom fails to call out the militia in the instances remaining after you strike out those words. Is there any liability on the State?

Mr. MICHAL (Cook). No.

Mr. MILLER (Cook). The State cannot be sued, anyhow.

Mr. MICHAL (Cook). You can present a claim against the State.

Mr. MILLER (Cook). The situation would be the same. In any event, it would be a question for the discretion of the Governor as to whether or not the situation had arisen where the militia should be called out.

Mr. MICHAL (Cook). That is the point; if you eliminate the words in italics, then it is discretionary.

Mr. MILLER (Cook). Either way, no difference whether in or out, the Governor may call out the militia to execute the law. If the Governor concludes in his wisdom it is not necessary to call out the militia to execute the law and he is mistaken, the State is not liable.

Mr. GORMAN (Cook). Since I offered my amendment, my attention has been called to the fact that it is not sufficiently broad to include tornadoes, cyclones, and hurricanes, and I would like to have unanimous consent to add "other disaster."

CHAIRMAN TRAUTMANN. If there is no objection, the amendment will be so changed.

Mr. MICHALSON (Cook). I accept that as a substitute.

Mr. CARLSTROM (Mercer). I submit a substitute for all pending amendments which is as follows: After the word "property" leave in all that is now in the section, and add the words "endangered by any public disaster, protect life and property"—I think that will cover it all.

CHAIRMAN TRAUTMANN. Do you offer that as a substitute for the amendment offered by the gentleman from Cook, Mr. Gorman?

Mr. GORMAN (Cook). I think the amendment offered by the delegate from Mercer accomplishes the purpose that I intended with less language and more specifically, and therefore I accept it as an amendment.

CHAIRMAN TRAUTMANN. The question is on the amendment offered by the delegate from Mercer. The clerk will please read the entire section with the amendment inserted.

THE SECRETARY (reading). "The Governor shall be Commander-in-Chief of the Military and Naval Forces of the State, except when they shall be called into service of the United States, and may call out same to execute the law, protect life or property endangered by any public disaster, suppress insurrection and repel invasion."

(Motion adopted.)

Mr. BRENHOLT (Madison). I move section 14 as amended be adopted. (Section 14 adopted.)

CHAIRMAN TRAUTMANN. There is no change in section 15 as found in the present Constitution.

Mr. BRENHOLT (Madison). I move its adoption. (Section 15 adopted.)

CHAIRMAN TRAUTMANN. 16, the printer overlooked evidently the fact of putting the amendments in italics. They will be found in line 15 on page 5, the words "or parts thereof," and in line 18, "or parts thereof," and in 24, "or parts thereof." The object of this amendment is to give the Governor the power to reduce the items of appropriation. He now has the authority to veto items, but he has not authority to reduce them, and the object of this amendment is to give him that authority; the other change is found on the top of page 6, line 32, the words "thirty days." At the present time, the Constitution provides that the Governor may retain bills for thirty days after the adjournment of the General Assembly. This allows him to retain them for thirty days before he passes upon them after the adjournment, and the reason the thirty days was put in was because the Committee of the Whole adopted the report of the Committee on Legislative Articles, providing that laws shall not go into effect until sixty days after the final adjournment of the General Assembly, and therefore this will allow the Governor to hold the bills thirty days, and give him more time to pass upon them and will not interfere with the date they go into effect.

Mr. SHANAHAN (Cook). I offer the following amendment: Amend it by striking out in lines 15, 18 and 24, the words "or parts thereof."

Mr. Chairman, and gentlemen of the Convention. As the Chairman stated, the words "or parts thereof" inserted in these three lines is new matter in this section of the Constitution. Under the Constitution of 1870, the Governor had the right to veto a bill sent to him from the General Assembly. Later, by an amendment to the Constitution, he had the right to veto an item in the bill. It is now proposed by the insertion of these words to give the Governor practically legislative power over appropriation matters, and I from long experience in the General Assembly feel keenly on this proposition, as I think it is a great injustice to the General Assembly and will have the effect of having the members of the General Assembly evade the responsibility in the making of appropriations for the maintenance of the State government. It will not only have that bad effect, gentlemen, but will have the effect of lowering the dignity of membership in the General Assembly, and I am one of the men who believe that there is dignity and honor in holding public offices, and I do not believe you are going to bring men of high type into public office by increasing the salary and lowering the dignity of the position. I served in the General Assembly when the salary was five dollars per day, I served in the General Assembly when the salary was one thousand dollars per session, and I served when the salary was two thousand dollars a session, and I served when it was thirty-five hundred dollars, as at the present time, and I always voted against the bills increasing the salaries of the members of the General Assembly, and the contention was always made if you increase the salary you would get a better class of men to stand for membership in the General Assembly, but I have always disputed that, and I will dispute it, and I contend that the only way you are going to get better men in office is to dignify an office and make it an honor to hold public office in this country.

If you insert these words in the Constitution, the members of the General Assembly will have little interest and responsibility in passing the millions of appropriations for the maintenance of this State government, and let me give you a little of the practical workings of the making of appro-

priations in the General Assembly. When the General Assembly is organized, an Appropriation Committee is appointed in the House and an Appropriation Committee is appointed in the Senate, and the chairmen of this committee are supposed to be the ranking members of the House and Senate, and they set to work to figure all the appropriations for the following biennial. Requests are made from the various departments and appropriation bills are introduced, fathered by citizens throughout the State, asking for the erection of buildings, monuments, public parks and so forth, and the chairmen of the Appropriation Committees of both Houses work together and agree upon how much revenue the State will have and how much money can be appropriated. Appeals are made by the various employees in the various departments for increases in their salaries, and the chairmen of the Appropriation Committees are appealed to day and night to increase the salary of Smith or Brown or Jones, and they find out this, Mr. Smith is getting a salary of twenty-four hundred dollars a year. Mr. Smith desires three thousand dollars a year, and he gives the reasons why he ought to have three thousand dollars a year to the chairmen of the Appropriation Committees, and the chairman of the Appropriation Committee, after considering the situation, recommends to his committee that the salary be made twenty-seven hundred dollars a year. Mr. Smith is dissatisfied and feels unkindly to the chairman of the Appropriation Committee and the members of the Appropriation Committee, and the Appropriation Bill passes and Mr. Smith's salary is made twenty-seven hundred dollars, and the bill goes to the Governor, and the Governor exercises his right and says that the salary ought to be two thousand dollars, instead of twenty-seven hundred dollars, and the chairman and members of the Appropriation Committees have not only got the ill-will of Mr. Smith, but they have failed to accomplish what they set out to do, to give a faithful employee what he ought to receive in the way of compensation, and what is the result? The chairman of the Appropriation Committee and the members of the Appropriation Committee evade responsibility and play good fellowship, and every request that is made, whether it is to increase the salary from two thousand to five thousand dollars, grant the increase, and so to speak, pass the buck to the Governor, and let the Governor reduce the appropriations, knowing that he will make the salary, no matter what they make it. If he desires to reduce it, he will reduce it.

Again, my friends, by your action this morning you determined you would have coordinated branches of the Government, that the Secretary of State and the Attorney General and the auditor, the superintendent of public instruction and the treasurer, should be elected by the people and they receive their certificate of office from the people. These men send their request to the legislature, and by the House and Senate they are referred to the Appropriation Committee, and the Appropriation Committee fixes the salary of the employees of these two offices. The bill passes and it goes to the Governor, and the Governor says to the Attorney General and the Secretary of State and the Auditor, "you be good, you carry out my program, or I will fix the salary of every man in your office." It don't matter what the General Assembly has done, it don't matter how thorough the examination that has been made by the General Assembly; it matters not whether the General Assembly in its wisdom fixed the salary of the Assistant Attorney General at five or six thousand dollars, if the Governor desires he can fix the salary at two thousand, and in that way cripple the office of the Attorney General. He can do the same with the secretary of the State and with the auditor. If the trustees of the University of Illinois appeared before the General Assembly and asked for an appropriation of two hundred thousand dollars to put up a new building on the campus and the General Assembly desires in its wisdom that there should be a building put up there to cost one hundred and fifty thousand dollars, the bill passes and it goes to the Governor, and the Governor can say, no, put up a building for fifty thousand dollars, the decision of the General Assembly has been swept aside.

I say to you, gentlemen, if that thing was in existence at the present time, that the membership of the General Assembly, as far as appropriations go, would be nil, and would amount to nothing, and instead of the Governor vetoing items amounting to from one hundred thousand to one half million dollars every biennial, that he would be called upon to veto items running from four, five to six millions of dollars, because the membership of the General Assembly would never consider the amounts and would pass anything that was requested, and for that reason I say to you, gentlemen, it is a grave and vital mistake to let the Governor reduce items in your appropriation bills. He should have the right to veto a bill, and veto an entire item, but once the General Assembly has fixed the amount in the item, he should not be allowed to reduce the item. For that reason, I am in favor of the proposed amendment.

Mr. HULL (Cook). Do you think the executive department of the government and the Governor will be better acquainted with the relative merits of the employees in the State service than the members of the General Assembly? Isn't it probable that the Governor, through his department heads, can better arrange the salary schedules all through the departments, than can the members of the General Assembly, being constantly importuned by their constituents, who want their own salaries raised? Can't you have your schedule of salaries better arranged to actually meet the character of the work if it is under the supervision of the executive, rather than if it is determined by the legislative department? I can see some force in your objection to this bill on the ground it may lead to the passing of the buck, as you say, but I can see a great deal to be said in behalf of this proposal from the standpoint of a proper classification of offices and classification of salaries according to work done, and it would seem to me that the executive would be better able to judge of that subject than would be the members of the legislature.

Mr. SHANAHAN (Cook). I am in favor of classification of offices and standardization of salaries, and will agree that the executive or head of a department has more information, probably, than the average member of the General Assembly, but the members of the Appropriation Committee hear the heads of the executive departments and decide from them what amounts should be appropriated to that department, and when the time comes when we have a classification of offices and standardization of salaries, then there will be no need for the Governor to veto.

Mr. DEYOUNG (Cook). I have the most profound respect for the gentleman from Cook, who has just spoken. Many a time during my brief service in the House of the Illinois General Assembly I know that his long experience was not only a guide, but an inspiration, and I have a very distinct recollection of his great service, particularly in the 49th General Assembly, in the interest of economy, for when he became speaker the real regime of economy was introduced, so far as the administration of the House was concerned. I defer to his judgment generally in matters of legislation, but very reluctantly on this occasion am compelled to dissent from the conclusions which he has announced.

Let us look just briefly into the history of the veto power in Illinois. Under the first Constitution, the Governor shared it with the judges of the Supreme Court, constituting a council of revision, but under that Constitution, even if this body, of the highest executive officer and the judges of the court of last resort of our State, vetoed a measure, a mere majority of each House of the General Assembly could reenact or pass over the veto of the council of revision any measure which had been enacted.

Under the second Constitution, the veto power was vested in the Governor alone, and again a mere majority in each house of the General Assembly could set aside that veto by passing the vetoed measure over the head of the Governor. In 1869 and 1870, when the preceding Convention to this one met, it again placed a veto power in the Governor, but it made that veto power effective by requiring a two-thirds vote in each house in order to overcome the veto of the Governor of the State, and even then in 1870, when the present Constitution was adopted, the Governor did not have the power

to veto anything more than a complete measure, whether that was general legislation or all appropriation, and in 1883, the General Assembly of this State submitted to the voters of Illinois the authority to vote items in appropriation bills requiring itemization where a bill provided for the appropriation or the expenditure of money. That was adopted by the voters of this State and became effective in 1884. The Governor, predecessor to the present Governor of Illinois, construed that provision to give him power to reduce items in appropriation bills, or to veto parts of such items, which the Supreme Court held in one of the Ferges cases could not be done under the language of the amendment. The amendment of 1884 required itemization. Itemization is something which may be obeyed in letter and spirit and it may not. If it is not challenged in the court, as happened in the Fergus cases, why then itemization might be lost sight of. Suffice to say, as the Constitution now stands the Governor of Illinois has one of two alternatives, either to permit an extravagant appropriation to stand, or to veto it altogether.

Now, I am well aware that the objection is going to be made that the reduction of an item of appropriation is vesting in the Governor legislative power. The same objection was made in 1883. The same was made in other states where the Governor's veto power has been progressively increased, and particularly in the last half dozen years. You will find that the veto powers of the governors of several states have increased, Massachusetts among them, and in Massachusetts the governor has been given the power to veto items and parts of items. Why is this so? We talk about the separation of the three governmental powers in Article 3 of the Constitution. We find in the language of the article, "except as hereinafter directed and permitted," and we do not have the separation of governmental bureaus in their original and pristine purity in Illinois. We have long since departed from it. It was objected in that day that the veto of an item, a part of an appropriation for a certain purpose, was the exercise of legislative power, but experience has demonstrated it was quite necessary, and I have yet to learn that when the power to appropriate in a single bill, prior to 1884, made the power of the Governor to do anything but veto the entire bill. I do not know that when the amendment of 1884 became effective the personnel, the character and the ability and the membership of the General Assembly descended to such a low plane because it destroyed the responsibility and membership of that body. Why, gentlemen, anyone acquainted with history of legislation in an English-speaking country or upon the English-speaking race on every soil knows the distinction has been made not only throughout the years, but throughout the centuries, in matters of appropriation, the power rested from the king long since the memorable days of John Hampton, who fought to protect himself against the payment of twenty shillings, and it was Edmund Burke who said, "Would the payment of the twenty shillings have impoverished him?" "No, not at all, but the principle upon which it was demanded would have made him a slave." Anglo-Saxon and American history is replete with the checks upon the exercise of taxes and the gathering of revenue, and it is quite another thing to vest in the chief executive to say, so far the public money shall be expended, and no farther. We are carrying out only in this proposal that which experience has demonstrated to be sound and necessary. May I devote just a few moments to some of the arguments made by my distinguished brother from Cook county, for which I have said on all occasions I have the most profound respect. Let me examine some of the arguments he made against this proposal.

He tells us practically that if the power to reduce items is vested in the Governor, it will have two effects, first it will destroy that responsibility which it seems from his argument has characterized the membership of recent General Assemblies of Illinois, and secondly, as I recollect his argument, it will lower the dignity of service in that body. Let me call your attention to the present system of appropriations in this State. The so-called administrative code, passed by the 50th General Assembly. This act not only requires the director of finance—the director of finance shall demand that

the heads of departments under the government itself from all the elective State offices, the Attorney General, Secretary of State, Superintendent of Public Instruction, Auditor of Public Accounts and in the University of Illinois itself, that they shall submit to him, the director of finance, estimates not only of the revenues on hand, but incumbrances and expenditures, not only for the current fiscal year but for the biennial to follow. Why, as the delegate from Cook, Senator Hull, has said, who knows better than the head of the executive department what salary should be paid? It seems to me that the illustration of Mr. Smith who goes to the General Assembly to ask that his salary be increased is an unfortunate illustration indeed, because members of the General Assembly, if not members of the Committee on Appropriations, cannot in the very brief period of service here possibly have the information which the head of the department or the Governor himself can obtain as to what a proper salary should be. Under the budget system of this same code, it requires this information to be given to the department of finance. Who passes on that? Mr. Smith is not consulted. It then goes to the Governor, the Governor can refuse it, but finally with his recommendation it is sent to the General Assembly, and while that body has the authority, under the Constitution as it now stands, to increase those appropriations, if you will, yet it is guided in its appropriations by the work of the executive. What becomes of the objection that Mr. Smith's salary shall be reduced by the Governor from twenty-seven hundred to two thousand dollars? It is a myth that is conjured up. It is an objection more specious than sound, because this very employee, Mr. Smith, the chances are one thousand to one, is an employee somewhere in some executive department, and is not the Governor charged with administration of this State's affairs, and is he not responsible for administration that will be as nearly satisfactory as he can make it? Is he going to neglect the performance of public duties, something for which he is responsible? Why, not at all. Let us see if this check the Governor may have in the way of reducing part of items is one that destroys the dignity and responsibility of membership in the legislature. I quite agree with my brother from Cook county, that the way to dignify public office and to get good men to serve is not necessarily by the increase in salaries. We are at one on that same subject. More than once his voice was raised, as mine, in this very hall, against indiscriminate increases in salaries for public officers on the theory they would bring better men in the public service. No, it needs something more than that. The dignity of public office is largely, if not altogether, indicated by the character of service rendered, no matter how high or low that situation may be legally, and I have not found that the character of the member of the General Assembly or their ability or patriotism has been so degraded since the Governor had the right to veto an item altogether. If that doctrine is correct, what becomes of the checks and balances and the right to review in other branches of our government? Is a circuit judge, because there is the possibility of review by the Appellate Court and Supreme Court, is he going to run wild and be careless? My observation in my brief career at the bar is quite to the contrary. The office of a court of review aside from determining causes themselves, is salutary in that it imposes restraints and compels the judge of the trial court to exercise more care, more discrimination of his duties than if the court did not exist above him. Is it true that because there are two houses in the General Assembly that either one shall run wild on all occasions? I agree there are instances where a measure that has popular support, and I am perfect willing to grant in cases of that character, one House may to some slight extent pass a measure hoping that the other House will make a disposition of it, but that is not true in the matter of expending money, because theirs is the task upon which the noblest spirits have acted and suffered and the most eloquent tongues in the history of the race have been exercised. No, I do not fear that it would destroy the responsibility or lower the dignity, but I have found that it has the opposite effect. If the members of the House and Senate know that there is an executive officer that will exercise this caution and this discrimination in the expenditure of money, I am convinced that here in this very hall the men that make these

appropriations will at least exercise the care which they exercised in the past, if not a greater measure of care. Now, we have the participation of the executive legislation in this State. We have his active participation. We have recognized that by legislation which has not only met with general approval by public officers, but which has met with the approval of many members of the Union. Already this legislation, scarcely three years old, requiring the budget system in Illinois, has been enacted by two other states in the Union, and the chief executive of Illinois, who in a large measure was the inspiration for its passage, has been called to the seat of national government on more than one occasion to inform the national legislators upon a system which, in the short space of less than three years has worked such financial wonders in our own State, and is there any criticism and any objection because the Governor has himself submitted these estimates to the law-making body that men have declined to serve in the General Assembly? Did the men who came to the Fifty-first General Assembly retire because of the fact that the Governor could say to them, "Here is an estimate and a budget of the State expenses for the next two years?" No, no, I have not until this Convention met and only within the last two weeks heard the objection made that because of his participation in the expenditure of money there would be that lowering of dignity in the membership of the General Assembly as to retard men from coming again and sitting in the council of the law-making body. I cannot share any such belief. Upon the question of taxation and the expenditure of public money, our greatest contests have been waged and won. Many and many a contest has been carried on, and we know full well in the public service there is nothing quite so easy as the expenditure of public money. It is only another check, that is all. Are you going to say to the Governor of Illinois, "Here is an appropriation which you must approve?" Isn't it the part of wisdom in the management of your own affairs, in the management of private affairs, to say upon a man who has the responsibility, the successful responsibility upon his head, whose interest does not go to cripple but to carry on the successful administration of the State's affairs, do you think that the Governor of Illinois is going to be so narrow, so niggardly, that in a case of that character he is going to cripple the office or reduce the salary of some subordinate in another executive office? We have illustrations of this in recent history, where the Governor and one executive officer did not get along well, where in the one instance where the Governor who exercised this power, the very department in which this man was interested, he did not touch at all. It shows you the man who is elected to the high position of Governor in this great State is not the man who is going to descend to the low plane of mere jealousy and envy to cripple some other department of State.

It seems to me, gentlemen, this is in the interest of economy. I cannot see that it destroys the responsibility or the dignity of a body, but it is only in keeping with the measures of the past. I am in favor of the section as it stands.

Mr. SHANAHAN (Cook). Did I understand you to say that the General Assembly has no power to make appropriations except what was in the budget?

Mr. DEYOUNG (Cook). I said it could exceed it.

Mr. SHANAHAN (Cook). Did I understand you to say there was no difficulty over the budget in the last General Assembly?

Mr. DEYOUNG (Cook). I did not say that.

Mr. SHANAHAN (Cook). Did you understand there was difficulty in the different departments over the right of the Governor to assume control over officers when they had been elected by the people? Do you know that the General Assembly by a resolution demanded that the department of finance send up the items of every department, and did you know that the General Assembly demanded that the heads of departments be given the right to appear before the Appropriations Committee and make their requests, notwithstanding there was a budget?

Mr. DEYOUNG (Cook). I said affirmatively that the budget does not limit the legislature as it does in some states, to the estimates made in the budget. The General Assembly can increase those figures, I grant that, but I do say and I have heard you say that the indiscriminate demands by the heads of the several departments who ask for all that was possible, would result in waste and inefficiency. I dispute the fact that since the Act has been observed, it has not resulted in saving of very large sums of money. When you and I came to Springfield in the month of January, 1917, there was not enough money in the State treasury to pay the ministerial help in this building, but you know after the administrative code act was passed there was a considerable balance in the treasury, notwithstanding the advanced cost of everything.

Mr. SHANAHAN (Cook). There has been a budget for six years.

Mr. DEYOUNG (Cook). There was one, to some extent, but not to the extent we now have it.

Mr. GREEN (Champaign). I think the members ought to understand when this report was signed by the Committee on Executive Department, that there was a reservation in regard to some of the members not to be bound by all the things in this committee proposal. This proposal to give the Governor power to veto parts of items succeeded in the committee by a vote of seven to six. The very able gentleman who has just addressed you lent his eloquence to the committee, and I think after sober reflection, a different result would have ensued if we had delayed the vote, even in the committee.

This idea of giving the Governor the power to veto parts of items is fundamentally wrong, if the General Assembly is to make appropriations. If the Governor has the right to reduce an item, then he has the same right to increase it. The only reason that can be urged why he should be allowed to decrease it is to save money, when even his best judgment would indicate it ought to be increased because the cause was worthy. Here is the reason advanced by one member of the committee who opposed the proposal in this form, but who is not present today, that to my mind is absolutely controlling. Some wise man said it takes thirteen men to enter a judgment where there is a trial by jury; that is the twelve jurors and the judge. It takes a meeting of the minds of the thirteen. The veto power in the chief executive is not for the purpose of giving the chief executive legislative power, but to give ultimate effect to the legislative acts of the legislative body, and requires his approval, and before an appropriation of money from the State treasury can be made, there must be complete agreement between both houses of the General Assembly and the Governor. He must agree, and there must be a meeting of the minds, and there must be a contract between the three parties. Now, if an appropriation be made for a specific purpose in the sum of one hundred thousand dollars by the General Assembly, and the Governor vetoes it, there has been no meeting of the minds, and it has failed, because it has not his approval. If he approves it, there has been a complete meeting of the minds and the constitutional provision has been met that the appropriation has his approval. It may well be that if that appropriation had only been successful in the committee or otherwise, to the amount of fifty thousand dollars, it never would have passed the General Assembly, they would not have agreed to that, because the matter for which the appropriation was made was one which merited an appropriation of one hundred thousand dollars. Now, if the governor is given permission to reduce that item to fifty thousand dollars, he is in effect the legislature and it is his legislative act, and the legislature never did agree to it, and there never was a meeting of the minds, and it violates the fundamental principles of appropriations by the General Assembly. They must originate there, and they must be completed there, and they must have the approval of the Governor, and if he does not agree with the General Assembly, he has the power to veto their acts, but not the power to set up his own independent judgment and make it his act, and if he did have the power, he ought to have the power to increase it. We are writing the Constitution, or suppose we are, We are not writing a legislative enactment. We are

laying down principles of government, and to give the Governor the power to veto part of an item would thwart the will of the legislature in part, and perhaps have the public mind get the impression he was favorable to the project for which the appropriation was made. It would not be true in the minds of the General Assembly that made the appropriation, as giving a full representative power on that provision. What has been said about it being in the interest of economy? Every man in this hall will be willing to stand by the word of the Speaker of the House, with his long legislative experience, as to how these things work, and this seems a means of the General Assembly passing the buck to the Governor, and saying to the folks urging them to make these appropriations, if they want them to pass, or if they want somebody else to take the responsibility, to go to the Governor, that after all he is the arbiter, and it is taking away from the General Assembly the responsibility that ought to stay there, and the Constitution ought to put it there. I do not care anything for the wisdom of Massachusetts or Texas, and any other state that departs from the absolute meeting of the minds between the General Assembly and the executive, is departing from the theory of government as laid down in the Federal Constitution and is so intended in every state.

Mr. HULL (Cook). Do you think there is a meeting of the minds when the General Assembly has voted fifty thousand dollars for some object, and the Governor vetoes the whole project?

Mr. GREEN (Champaign). Absolutely not, and the Constitution requires that he shall approve it to make it good, but the Constitution does not allow him to set his figure on the appropriation and thereby become the legislature.

Mr. DEYOUNG (Cook). The Governor would not have under this proposal the power to increase an item?

Mr. GREEN (Champaign). He would not.

Mr. DEYOUNG (Cook). He clearly could not increase any appropriation?

Mr. GREEN (Champaign). The way it is written, no.

Mr. DEYOUNG (Cook). The only change from existing Constitutions in that respect is that it proposes to give him the power to reduce an item?

Mr. GREEN (Champaign). Yes.

Mr. DEYOUNG (Cook). Otherwise the language is the same as in the existing Constitution?

Mr. GREEN (Champaign). Yes.

Mr. DEYOUNG (Cook). And the Governor does not have the right to increase the appropriation?

Mr. GREEN (Champaign). No; but if you give him the power to reduce it, upon the same principle he ought to be given the power to increase it, because the principle is fundamentally bad.

Mr. DEYOUNG (Cook). Let us talk about what is in this proposal.

Mr. GREEN (Champaign). We must not speculate if we write a Constitution. Whenever we violate principles we get into trouble, and nobody would give the Governor power to increase an item.

Mr. DEYOUNG (Cook). You have said a great deal about the meeting of the minds. There are certain subjects, certain appropriations that consist of a number of items, for instance, appropriations for the State penitentiary; the appropriations made for the State penitentiary would not be a single item?

Mr. GREEN (Champaign). No, it should not be.

Mr. DEYOUNG (Cook). It is in a number of items. You dwelt with some emphasis on the meeting of the minds between the General Assembly and the Governor.

Mr. GREEN (Champaign). Yes.

Mr. DEYOUNG (Cook). Suppose the Governor takes two or three items out of the appropriations for the Illinois penitentiary. Do you still say there is a meeting of the minds when the General Assembly says that the penitentiary should have so many hundreds of thousands and the Governor takes one hundred thousand out of it?

Mr. GREEN (Champaign). I do. Suppose the General Assembly said that you needed fifty thousand dollars to properly feed the inmates of the penitentiary. They set up that as their judgment. Now, if the Governor on principle has any right to do anything, to interfere with that in any way without taking the responsibility, he ought to take the responsibility of ratifying the act of the legislature or else leave the responsibility to them, because if perchance their judgment is right and he undertakes to feed them for twenty-five thousand dollars, and they are poorly nourished, where does the responsibility rest?

Mr. DEYOUNG (Cook). Upon the Governor.

Mr. GREEN (Champaign). If the General Assembly is to be charged, under the Constitution, with the power to make appropriations for these purposes, then when they set their judgment on the amount they make for them, it should be conclusive, if the Governor approves it; but he cannot divide.

Mr. DEYOUNG (Cook). The Governor can either allow the appropriation to stand or veto it altogether?

Mr. GREEN (Champaign). Yes.

Mr. DEYOUNG (Cook). Do you still maintain that where the Governor vetoes the whole item in an appropriation to certain State institutions, consisting of many items, that there is a meeting of the minds between the General Assembly and the Governor?

Mr. GREEN (Champaign). There certainly is, on the items that are passed, and you and I know that the Supreme Court was in grave doubt, and as I remember it, it was on a divided opinion, and I think the decisions are altogether in harmony with the power of the chief executive to even veto items, and I have my doubt about giving him power to veto items in one bill, and I am not in favor of turning over all legislative power on the items which the General Assembly itself approves.

Mr. DEYOUNG (Cook). You are in doubt about the power of the Governor to veto items?

Mr. GREEN (Champaign). I was in grave doubt a long time.

Mr. DEYOUNG (Cook). It was settled by the Supreme Court of this State, and settled to the contrary by the Supreme Court of Pennsylvania.

Mr. GREEN (Champaign). Yes, you can prove nearly anything by the Supreme Court of Pennsylvania. You and I both know that the decisions of that court would not be taken as responsible authority by the courts of this State.

Mr. DEYOUNG (Cook). Now, let me ask you one more question: Do I understand when you use the phrase "meeting of the minds," you use it in the accepted meaning of the law of contracts, that there is an agreement?

Mr. GREEN (Champaign). Yes, so far as that subject is covered by this Constitution, as a particular method of the members of the General Assembly or the Governor agreeing on appropriations.

Mr. DEYOUNG (Cook). Then I understand you to say that where one item of an appropriation to a certain institute, consisting of a number of items, is taken out by the Governor, there is a meeting of the minds?

Mr. GREEN (Champaign). Yes.

Mr. DEYOUNG (Cook). It puts a new meaning on the words.

Mr. GREEN (Champaign). I have some doubt about giving him that power. Take a case in court; the trial court can grant a new trial, but he has no right to write in a new amount different from the verdict, and there is as much right on principle for the judge of the court to write a judgment in a different amount than the amount determined by the jury as there is for the Governor to write a new amount in the appropriation.

Mr. DEYOUNG (Cook). There may be a remittitur granted by the court.

Mr. GREEN (Champaign). Yes, that is accepted by counsel, or else it will require a new trial. If your proposal required this be sent back to the General Assembly, you would have an analogy to the General Assembly being directed to change that appropriation, or it would be vetoed. Your

analogy to be right should give the Governor the right to sit in his office and change it.

Mr. DEYOUNG (Cook). It does not seem to me there is anything in the analogy.

Mr. GREEN (Champaign). Surely in principle, if it is a condition precedent to the reception of the amount of the amount of the verdict, that counsel shall make his election whether to take a new trial and have the judgment reversed for that purpose, or voluntarily consent to a reduction.

Mr. MACK (Hancock). I rise here, gentlemen, to put myself on record in this matter. I desire, Mr. Chairman, that this Convention be progressive at all times, and to move forward, and I also earnestly desire to preserve fundamental principles, and I cannot refrain, even at the end of this day, from putting myself on record and saying that to me I see no other course except to take the position of the honorable member from Cook county, the Speaker of the House, and to insist that it is necessary, in my judgment, that we should stand by the fundamental principles of Government.

You may well determine that you may stand by a principle that has stood for centuries and centuries and preserve for the government of Illinois a power that existed for centuries and centuries. You did well, and now, gentlemen, I ask you to stand for a principle that is equally safe, and that belongs to a republican form of government, and every government throughout the Union maintains these two principles, that we are jealous of the power of the executive and equally jealous of the power of the legislature in the great State of Illinois, and while I am speaking to you here tonight, I want to say to you one thing that has moved my soul since coming here, and that is this, that we should carry out from this Convention and should spread upon its records the great principle that every function of this government and everybody which is connected with the performance of its high duties, be looked upon with the highest respect, and I insist on preserving in its purity the first and second branches of this Government, and I insist also on preserving in the same purity the legislative branch of this government.

Now, just consider for a moment what it does. The gentleman says the Constitution of this great State of Illinois should provide that the Governor has the right to strike out different items, but when you have gone that far, you have gone far enough, you have gone to as great a distance as popular government will warrant you in invading the province of the legislature. The next step, as the gentleman from Cook has wisely said, you entrust to the Governor of the State of Illinois the power to take out this item and to scale it down, instead of keeping strictly within his own province, within the domain where an executive officer has been placed for years, and I might say centuries, and maintained his veto power alone, he gets into the domain of the legislator, and attempts to dictate to the legislature, that this shall not be done, and sends it back with his veto. He gets into the domain of the legislature and the appropriations committee.

Let me say to you, Mr. Chairman, in closing, that I believe that this Convention should consider this well before they sustain this radical proviso, that certainly the General Assembly, selected by the great people of the State of Illinois, coming from the people and returning to the people, certainly it should be held in high respect, because of its integrity and its desire to be economical, that we should regard it as highly as the Governor, who likewise comes from the people and goes back to the people, so in closing let me say in the language of a man in the great Massachusetts Convention, I hope, sir, that it may not be said when we have adjourned and left this Convention hall we found a bare structure handed down to us from 1870 of marble, and left it brick, but we left its columns embellished, and may we preserve as we go along the fundamental principles that rest at the base of popular government. I ask that we maintain the amendment of the gentleman from Cook. (Applause.)

Mr. MILLER (Cook). I hesitate to say anything on this subject, because we have heard from those who have had long legislative experience,

and there are others here who have not spoken who also have had long legislative experience. I particularly dislike to disagree with the gentleman from Cook, who is the distinguished Speaker of the House. I very heartily sympathize with what he says about placing responsibility upon the members of the House, and in deploring anything that would lessen the dignity of the honor of sitting in the General Assembly, and if I thought this would have that effect, that to my mind would be a sufficient reason against it, but let me call your attention to this thing: In the matter of appropriations, it has been ascertained not simply in Illinois but in other states and in the Nation and in other countries, that many checks are needed. Congress has very full and complete power in that regard, not even limited by the budget system. Has that power tended to elevate the personnel in Congress, and has that power, because they had the power, been used wisely? Is it not true that the appropriations for internal improvement have been a scandal in Congress for many years? I remember a year ago in passing through two or three of the Southern states on business, I was compelled to travel in an automobile, and I passed through many small towns, and nearly everywhere we found the new postoffice in the guise of a Greek temple, of marble with fine granite columns in front. They were not more than five or six years old, from all of which I concluded that Congress, because this power is entrusted to it, has not reached that perfect stage of responsibility which we think they ought to reach, having this responsibility placed on them.

The distinguished gentleman from Urbana has volunteered the information that this committee would have changed its mind if it had reflected soberly afterwards; so far as I know, there was reflection, and it was sober reflection, and I have not seen anything since then that would indicate that the committee would have changed its mind.

Now, let us analyze the argument for a moment that we are violating some great principle. If we are, we ought to know it, because we ought not to violate any great principles. What is the principle? It certainly is not the principle, the principle of giving the Governor a hand in legislation; both in our National and State governments, the Governor here and the President there, are a part of the legislative system. There can be no doubt of that, because he has the veto power, and it has been decided by many a court that the Governor is a part of the legislative system. Now, when we come to the question of reducing an item, we have the same meeting of the minds exactly that we have in cutting out an item entirely, and why? The legislature can pass up to the Governor the appropriation bill a proper time before adjournment, and the Governor must within the ten days either approve or veto it. If he cuts out an item, the legislature may, if they see fit, repass that item over the veto; then that becomes a law. If in the face of the veto of an item, the legislature declines to pass it over the veto, then there is a clear meeting of the minds, just the same as if a man makes up a contract, and sends it to the other, and the other cuts out a paragraph and sends it back and says, I have signed it on the condition that goes out, and the other man accepts it in that way, of course there is a meeting of the minds, but who would say there is a meeting of the minds if the one lawyer to whom it is sent cuts out one paragraph and signs it and calls that a meeting of the minds? That of course could not be so. Just the same way in reducing an item. If the legislature passes up an appropriation bill to the Governor and the Governor reduces an item and sends it back to the legislature, they have the option to pass it over the veto or to leave that alone, and if they leave that alone, that indicates there was not a meeting of the minds, the same as cutting it out.

Mr. GREEN (Champaign). Is that the same meeting of the minds as if the Governor signed it? It takes two-thirds to pass it. Suppose a majority would be in favor of the bill in its original form, but you could not get two-thirds in the final form?

Mr. MILLER (Cook). Suppose that same thing applies in the case of any other bill not an appropriation bill and the Governor vetoed it. Is there a meeting of the minds?

Mr. GREEN (Champaign). It is not a bill.

Mr. MILLER (Cook). Suppose they pass it over his veto?

Mr. GREEN (Champaign). It takes a two-thirds vote.

Mr. MILLER (Cook). Now, the gentleman has said also it would be the same situation exactly as if the Governor could increase an item. The same argument exactly would apply to the veto of a whole item. He might just as well say that is just as wrong as allowing the Governor to put in an item entirely. As a matter of fact, every argument that the gentleman has made against reducing an item would apply just as well to cutting out an item entirely. As a matter of fact, I take it, if we were now considering the question of allowing the Governor to veto an item, he would be against it, and yet he concedes that subsequent history has shown that the provision works well.

Just one thing more that I wanted to say. In the first place, we have heard about passing the buck. It seems to me, and I cannot for the life of me see any answer to the proposition, that the argument would apply just as well to having two houses of the legislature and the Governor pass on all bills. We have practically three houses, the lower house, the Senate and the Governor. I imagine there is more or less passing of the buck from one to the other; I imagine lots of things happen, not in Illinois, of course, but elsewhere outside of Illinois. Imagine that sometimes it happens, but is that any reason for abolishing the Governor and the Senate? It is true they abolish the House of Lords in England, perhaps for that reason, but we have not come to that state yet.

Mr. SHANAHAN (Cook). In the last session, it was determined between the Governor and the Appropriations Committee that they pass certain armory appropriations, and all other appropriations were to be taboo. After the appropriations were all out of the way, the men who were anxious to make good fellows of themselves at home determined upon a plan to pass a half dozen appropriation bills for armories in various towns, well knowing that the Governor was going to veto them. That is passing the buck.

Mr. MILLER (Cook). The gentleman has enlightened me. I supposed that had never happened in Illinois, but I do not see how in the world that has anything to do with the argument on his side of the matter, because there was a case where they passed the buck to the Governor as the law stands now, and certainly it would not be any worse in the matter we propose.

The Governor is the head of the State government, and he ought to have, as it seems to me, some supervision and control over the various departments of the State government. Why shouldn't he have? He is the one on whom the eyes and the votes of the voters are centered on election day. He is the responsible head of the State government.

Mr. LINDLY (Bond). Is the Governor over the State Treasurer and the other nine officers?

Mr. MILLER (Cook). He should have some supervision over the conduct of the State officers. That reason may not appeal to some, but it would appeal to me, and I am sure it would appeal to certain others. It seems to me the Governor, who is the real head of the State department, who is responsible for its conduct, should have some control over the departments of the government over which he is certainly more or less responsible, and if we elect the right kind of Governor, which we can more easily do than elect any other State officer, then I would say that would not be attended with any danger.

(Chairman DeYoung presiding.)

Mr. TRAUTMANN (St. Clair). Possibly it is unusual for the chairman of a committee after he has signed a report to object to parts of that report, but as the gentleman from Champaign has suggested, when this matter was adopted by the vote of 7 to 6 in the committee some of us reserved the right

to express our views on the floor of the house, and I did not feel on this subject as the distinguished gentleman who offered the amendment, I certainly would not have left the chair for the purpose of expressing my opinion and views in a brief period.

I cannot conceive how the distinguished gentleman who at this moment is presiding over the Committee of the Whole, after his experience in the General Assembly, would take the view that he has taken. I doubt whether any other member would take that view, although it has been partly taken by the Senator from Cook (Hull). Some fifteen years ago I had the honor of being chairman of the Committee on Appropriations in the House, and if this kind of provision had been in the Constitution at that time I dare say that I would have been the most popular man in Springfield, not that I am more apt in passing the buck than some other gentlemen, but I think I could have learned, and I dare say that the Governor of Illinois at that time would have been called upon to veto seven million dollars of appropriations, and the State would have had a deficiency. There is no question about it. Now, then, from time immemorial, ever since we have had constitutions, so far as I can learn, the Constitution itself and the legislature were the only ones that fixed salaries that were paid out of the State treasury. That will not be true if you leave these few words in this section, because there is no man but what in my mind would say that this gives the Governor legislative power. If this Convention is ready to give the Governor legislative power, then they should defeat this amendment. There is no question in my mind, gentlemen, but when you give the Governor power and authority to reduce items of appropriation, you are at that very moment conferring upon him the power of legislation. I cannot conceive of it in any other way. I am not ready yet to give the Governor of Illinois legislative power. It has been suggested here that the heads of the departments know better than anyone else what salaries should be paid. That may be true, and they are the only ones to fix the salaries, in my judgment. They may know better what the appropriations should be, but it is necessary to bring all these views of the heads of the departments to a responsible body, which is the legislature, and let them give the information and let them say what the appropriations should be, representing the people of Illinois in their representative capacity. If you are going to give the Governor authority to reduce items of appropriation, why not give him authority to reduce terms of office? If the legislature passes a bill creating an office for four years, why not give the Governor authority to make the term two years? It is not legislative, according to the argument. If it is not, what is it? It is just as reasonable to give him that authority as it is to reduce items. There is a vast difference in reducing an item and vetoing an item. If the Governor objects to an item, he can eliminate it, but when he does eliminate it, he is not legislating. It does seem to me this is a very serious problem. This to my mind is a step in the wrong direction. It is consolidating, or the beginning of the consolidation of the legislative and the executive departments. I can conceive, with what little experience I have had in the General Assembly for eight years, that if this provision remains here, you might just as well add another one, giving him authority to increase the items and take away from the General Assembly the power of appropriation. There would be no need of it. At the present time the heads of the departments and the State officers, or rather the sub-heads, are required to make their reports as to what is needed, then the head of the department passes on it, then it is referred to the Director of Finance, and then to the Governor, and when they get through, they submit it to the legislature, now, in the form of a budget, and they have the highest figures they think are necessary, or that they think the revenue of the State will stand, because they have the feeling that whatever money is on hand should be appropriated and spent.

Mr. MILLER (Cook). The legislature does?

Mr. TRAUTMANN (St. Clair). Yes, and we here, too. When you do that and submit it to the legislature, this budget, and let the legislature work on it for weeks and use its best judgment, not a single, solitary mem-

ber directly interested in the spending of that money, except what he gets, his own money, they are the gentlemen that are unprejudiced and can pass upon these appropriations for the expenditure of the people's money, and then if you later on give the Governor the power to reduce these items, you are giving him power of legislation, and you might just as well take it away from the legislature. I believe it is a wise provision that we originally provided, that all appropriations shall be made by the General Assembly and not by the executives, or heads of departments. If the heads of departments know best, then why have the Governor pass on it? Why not let everybody in Illinois or the head of the department, say what he shall spend, and let him take his own appropriation, but that has not been the theory of our Government, which is the theory it is better and safer to let another branch of the Government pass on the appropriations, with the provision that the Governor can veto the items or the entire appropriation if he sees fit.

Mr. HULL (Cook). Whatever the theory, as a matter of experience, you have had considerable experience, is it not true that a good many members of the legislature are pretty aggressive in getting their friends on the payrolls and in the various branches of government, and are very aggressive in the appropriations committee in getting salaries for their friends?

Mr. TRAUTMANN (St. Clair). They are aggressive, but not always successful, that is the reason I say I would have the opportunity of making myself popular if this provision had been in, but I believe every man who has been a chairman of an appropriations committee feels it is his duty to keep the appropriations within the limit of the revenues that can be raised the next two years, and he has the information to know what the revenue would be.

Mr. HULL (Cook). They are perfectly willing to spend all the money they would see in sight?

Mr. TRAUTMANN (St. Clair). It is up to them to set the limit, so they do not go beyond the limit of the revenue, and the appropriations committee know the limit and they have that responsibility, but under this, they would not have this, because they have the Governor.

Mr. JARMAN (Schuyler). I think there is some misapprehension with reference to the provisions of this bill, from what has been said here. If the Governor vetoes a part of an item of a bill, doesn't it become the duty of the Governor to return that to the legislature, and can't the legislature pass it over his veto in the same way that they do any other item?

Mr. TRAUTMANN (St. Clair). No, because in 95 per cent of the cases the legislature has adjourned, because the appropriations bills are about the last thing to pass, and the moment they do, the gravel falls on the sine die adjournment. Now, under the provisions of this same section, the Governor has the right to hold it ten days after the adjournment of the session of the General Assembly, and we are providing he can hold it thirty days, if he gets the bill early.

Mr. JARMAN (Schuyler). Doesn't this section make him return to the legislature, to the House in which the bill originated, and doesn't the House have the power to pass it over his veto?

Mr. TRAUTMANN (St. Clair). In a great many cases they are not in session.

Mr. GORMAN (Cook). I offer an amendment to the amendment by striking out all the language between lines 12 and 27, except the word "any," and substitute therefor "all bills making appropriations of money shall be made by the Governor." (Laughter.)

Mr. WHITMAN (Boone). I move debate be now closed and we take a vote on the proposition.

(Motion prevailed.)

CHAIRMAN TRAUTMANN. The question now is on the motion to strike out on page five, in lines fifteen, eighteen and twenty-four, the words "or parts thereof."

(Amendment adopted.)

Mr. GREEN (Champaign). I move the adoption of the section, as amended.

(Section sixteen adopted.)

CHAIRMAN TRAUTMANN. Section seventeen is the same.

Mr. LINDLY (Bond). I move its adoption.

(Section seventeen adopted.)

Mr. HAMILL (Cook). I move the committee do now rise and report progress and ask leave to sit again.

(Motion adopted.)

(Chairman Woodward presiding.)

Mr. TRAUTMANN (St. Clair). The Committee of the Whole desires to report progress and asks leave to sit again.

(Report adopted.)

Mr. SHANAHAN (Cook). I ask unanimous consent to submit a report, minority and majority reports.

THE PRESIDENT. There being no objections, the reports will be accepted, and under the rules they will lie on the table and be printed.

The Committee on Rules asks leave to submit a report: "Your Committee on Rules and Procedure recommends that Proposal 211, reported back by the Committee on Legislative Department, be taken from the table and placed on the general orders for consideration in Committee of the Whole."

(Report adopted.)

THE PRESIDENT. The Committee on Rules and Procedure submits this further report:

"Your Committee on Rules and Procedure respectfully recommends the reports of the Committee on Legislative Department, being Proposals 371, 372 and 373, and the reports of the Committee on Initiative, Referendum and Recall, being Proposals 367 and 368, be taken from the table and placed on the general orders for consideration in Committee of the Whole."

(Report adopted.)

Mr. SHANAHAN (Cook). I move the Convention do now adjourn until nine o'clock tomorrow morning.

(Motion prevailed.)

Whereupon adjournment was taken by the Convention to Thursday, June 3d, A. D. 1920, at nine o'clock a. m.

THURSDAY, JUNE 3, 1920.**9:00 o'Clock A. M.**

The Convention met pursuant to adjournment.

President Pro Tem. Hamill presiding.

Prayer by the chaplain.

Whereupon the Convention proceeded upon the order of general orders of the day, reports of standing committees.

Mr. LATCHFORD (Cook). The Committee on Initiative, Referendum and Recall respectfully submits a report:

"A minority of your Committee on Initiative, Referendum and Recall respectfully requests that the proposal, hereto attached, being Substitute Proposal 371, for a constitutional initiative, be placed on the general orders.

(Signed) GEORGE P. LATCHFORD.

ERNEST KUNDE.

ERNEST B. POTTS.

OSCAR WOLFF.

Whereupon the Convention further proceeded on the order of reports of special committees, introduction of proposals, first and second reading of proposals, motions and resolutions.

Mr. MEINERT (Washington). I have several petitions from citizens of Randolph and Jackson counties, relating to the reading of the Bible in the public schools, which I will ask to have referred to the proper committee.

PRESIDENT PRO TEM. HAMILL. The petitions will be referred to the Committee on Bill of Rights, without objection.

Mr. CORLETT (Will.) I also have several petitions from citizens of DuPage county, relating to the same subject, which I will ask to have referred to the proper committee.

PRESIDENT PRO TEM. HAMILL. Without objection, the petitions will be referred to the Committee on Bill of Rights.

Mr. CORLETT (Will.) I also have a petition from citizens of DuPage county, relating to Chicago's representation in the legislature, which I will ask to have referred to the proper committee.

PRESIDENT PRO TEM. HAMILL. The petition will be referred to the Committee of Legislative Department, without objection.

Mr. DOVE (Shelby). I have a petition from citizens of Christian county, relating to the Bible in public schools, which I will ask to have referred to the proper committee.

PRESIDENT PRO TEM. HAMILL. Without objection, the petition will be referred to the Committee on Bill of Rights.

Mr. TANNER (Clay). I have several petitions from citizens of Clay, Effingham and Marion counties, relating to the reading of the Bible in public schools, which I will ask to have referred to the proper committee.

PRESIDENT PRO TEM. HAMILL. Without objection, the petitions will be referred to the Committee on Bill of Rights.

Whereupon the Convention proceeded upon the order of unfinished business, general orders of the day.

PRESIDENT PRO TEM. HAMILL. Under the order of general orders of the day, we will take up the further consideration of Proposal 369. I will ask Delegate Trautmann, of St. Clair county, to resume the chair.

(Chairman Trautmann presiding.)

CHAIRMAN TRAUTMANN. The clerk will please read the minutes of yesterday.

(Secretary reads minutes.)

CHAIRMAN TRAUTMANN. Section eighteen is the next section under consideration. There is no change made in section eighteen. It remains the same as in the old Constitution.

Mr. TRAEGER (Cook). I move its adoption.

(Section eighteen adopted.)

CHAIRMAN TRAUTMANN. Section nineteen is the same as the present section nineteen.

Mr. HOLLENBECK (Coles). I move its adoption.

(Section nineteen adopted.)

CHAIRMAN TRAUTMANN. Section twenty is the same as the first half of section twenty, and section twenty-one is the second half of section twenty. The committee divided those two sections because they had no relation to each other, so section twenty is the first part of old section twenty.

Mr. WHITMAN (Boone). I move its adoption.

(Section twenty adopted.)

CHAIRMAN TRAUTMANN. Section twenty-one is the same as the second half of the old section twenty.

Mr. GANSCHOW (Cook). I move the adoption.

(Section twenty-one adopted.)

CHAIRMAN TRAUTMANN. Section twenty-two is the same as the old section twenty-two.

Mr. SHUEY (Coles). I move its adoption.

(Section twenty-two adopted.)

CHAIRMAN TRAUTMANN. Section twenty-three is the same as the old section twenty-three.

Mr. MOORE (Macon). I move its adoption.

(Section twenty-three adopted.)

CHAIRMAN TRAUTMANN. Section twenty-four is the same as in the present Constitution, except a few words left out. They have no relation to the existing conditions, because they refer to the officers who were then holding office in 1870.

Mr. TRAEGER (Cook). I move its adoption.

(Section twenty-four adopted.)

CHAIRMAN TRAUTMANN. Section twenty-five is the same as section thirteen of Article 10, which is a part of the article now relating to counties. It has the same language and that section was referred to the executive committee.

Mr. HOLLENBECK (Coles). I move its adoption.

(Section twenty-five adopted.)

CHAIRMAN TRAUTMANN. Section twenty-six is similar to section eleven of Article 9 of Revenues. The chairman of the Committee on Revenues asked the chairman of this committee to consider this section, because it has no particular relation to revenue, and I would ask you to refer to section eleven of Article 9. Now, section eleven of Article 9 reads:

"No person who is in default, as collector or custodian of money or property belonging to a municipal corporation, shall be eligible to any office in or under such corporation," and so forth. The words "belonging to any municipal corporation" are stricken out, and this section covers all officials. The balance of the section is the same.

Mr. DUPUY (Cook). I move its adoption.

(Section twenty-six adopted.)

CHAIRMAN TRAUTMANN. Section twenty-seven is the same as section twenty-four of the present article.

Mr. SHUEY (Coles). I move its adoption.

(Section twenty-seven adopted.)

CHAIRMAN TRAUTMANN. Section twenty-eight is the same as the present section twenty-eight.

Mr. SHUEY (Coles). I move its adoption.

(Section twenty-eight adopted.)

CHAIRMAN TRAUTMANN. Section twenty-nine is an entirely new section.

Mr. SIX (Pike). I move the adoption of section twenty-nine.

Mr. LOHMAN (Cook). Let it be read.

CHAIRMAN TRAUTMANN. Will the secretary please read section twenty-nine?

THE SECRETARY (Reading). "The auditor of public accounts, in addition to his duties prescribed by law, shall be required to establish a uniform system for the conduct of the fiscal affairs and accounts of all county, town and school officers, and to supervise such systems and to audit the accounts of such officers."

Mr. SIX (Pike). Section twenty-nine was submitted to the committee for the purpose of having a uniform system of accounts in a subdivision of the State which expends enormous sums of public money. In our county at the present time there is no system by which the comparison can be made relative to the expenditures for various public moneys or funds in the different counties. It is impossible to tell whether the expenditure in one county is too high or whether that county is running upon an economical basis, because items from different funds are accumulated and the appropriation bills are not clear and are not uniform. That system may now be established by a State official who has not only power to establish it, but is here given authority to supervise, to perfect a system which can result in nothing but economy. Now, with regard to the application, it applies to counties, towns and school officers. There is provided by statute certain auditors for counties in some cases and for cities. The difficulty has been to get a uniform system with regard to these municipalities throughout the State. The local influence has prevented the legislature from bringing about what we think this section of the Constitution would bring about. Therefore, it is necessary, where legislative in character, that the Constitution contain this provision. Local influence has been able to prevent it for a period of more than forty years.

Mr. STAHL (Stephenson). Will this interfere with the municipalities and counties that already have accounting systems of their own?

Mr. SIX (Pike). It will not, but it is hoped the legislature in the future will see fit to adopt a law making municipal accounting uniform. This will not interfere with the present system.

Mr. STAHL (Stephenson). Has the committee in mind the force of employees who would be required to supervise this work over the entire State?

Mr. SIX (Pike). I personally took it up with the State Auditor's office, and they assured me they could handle the work with less than three men, and they believe they could take care of the work of Cook county with two men, and possibly with one.

Mr. MILLS (Macon). I move to amend section twenty-nine by inserting the word "annually" after the word "to" in line four of said section.

Mr. FIFER (McLean). I do not think this is of very vital importance, but I doubt the propriety of its adoption. Most of us will remember in the early days when there was an adoption of the present Constitution that there was a great deal of trouble in different counties of the State with reference to the defaults of county officers. Time went on and finally, as I remember it, the legislature passed a law by which the several counties of the State could employ accountants and have their books audited, and that has been going on now for a number of years, and since the adoption of that policy there has been but very little, if any, trouble in any of the counties of the State.

Now, the question is presented as to whether that shall be placed in the hands of the auditor of public accounts. Can he do it as cheaply and as effectively as it is now being done under the direction and supervision of the board of supervisors under the law as it now stands upon the statute books in this State? I doubt very much whether the change will result in any benefit to the State whatever, and I doubt also whether it will be done

as cheaply and as effectively as it is now being done under the direction of the several boards of supervisors of the State.

It is a local matter entirely and the county boards scrutinize those matters very closely. Each county officer in the State is required to make a report to the Board of Supervisors, and the chairman of that board, and they, I believe, at the expiration of this officer's term, employ expert accountants. That is the course that is being pursued in my own county, and I think the other counties are pursuing the same method, and the question is whether it is of any benefit making any change, by taking from the local authorities and concentrating it in one office under the dome of the capitol at Springfield.

Mr. GILBERT (Jefferson). The added section proposed by the committee provides that the State Auditor shall supervise the accounts of county officers and of certain other officers mentioned, and shall establish a uniform method of accounting to be followed. The delegate who has just spoken (Mr. Fifer) may find conditions entirely satisfactory in his own county, but there are counties in this State, and many of them, that have no system of accounting whatever, that have no checking of the accounts except such check as is made by an inexperienced committee of the Board of Supervisors, who know little more after the books are examined than they did before.

Now, with a uniform system of keeping books and with a certain check made by the State, not only would their affairs be kept in better order, but it would be notice to any public official that his accounts would be examined and checked by an expert, who would be able to determine the condition of affairs and it would be a great safeguard, in my judgment, against irregularities.

Another reason, gentlemen; it is said in certain counties the books are now audited by experts. That is certainly as expensive and no doubt more expensive to the county than would be the audit made by an officer of the State in the regular line of duty and in the performance of the business of checking these accounts. Certainly it could be more cheaply done and the service would be much better performed. The books, too, would be kept in systematic order. That is not all. In my opinion there would be some saving to the county in the way of surety fees for bonds. If every man who signs a bond of a county official knew that annually there would be a complete audit of that official's accounts by an official of this State, and that those books would be kept in a specified proper manner; the risk would be less and the result would be better and the expenditure for surety bonds ought to be reduced. At least, individual sureties would feel better satisfied and the risk to them would be less. I believe the plan of checking accounts by the Auditor of State would be a great forward movement for better accounting conditions in county and town affairs, and would result in great good to the entire State, and particularly to more than half of the counties that have no plan whatever today of checking up their county officers, except through the medium of an audit made by a committee of the board of supervisors, many of whom have no experience whatever in accounting and whose reports may not always show the true state of accounts. I hope that this section may be accepted by the Convention and be adopted as a part of our Constitution.

Mr. SCANLAN (LaSalle). I dislike to disagree with the distinguished delegate from McLean (Fifer) but I fear he is absolutely wrong when he says this is going to cause trouble in the State of Illinois. I know the fact to be that under our present system there are a few auditing concerns in Illinois who have been going around in different counties and getting contracts.

Mr. HAMILL (Cook). The gentleman is addressing himself to the merits of the question. The question is the amendment and the argument should be addressed to that amendment.

Mr. SCANLAN (LaSalle). If the gentleman will be patient just a minute I will get to that. I say these companies have been getting contracts and holding up the counties, and in our county they paid sixty-six hundred dollars to the auditing company. I think the amendment is wrong. I think

most county officers in Illinois would be glad to have a system in force by some State officer, so a county officer would know how to conduct his office. It would tend to uniformity and would mean a saving of large sums of money. I do not think this is going to provide a large number of office-holders. I do not think it is going to require but a few more men than it takes now to examine the State banks and building associations, and it only takes a few men to do that. With this put in force, the county officers will be started out on the right track in conducting the business of their office. They will know how to begin and will know where they stand. They do not know what day this examiner is coming in, and they will keep their accounts straight, and I think this is the right kind of legislation to put in the Constitution at this time. Let the examination be when the auditor or whenever the examiner wants to go to a county office, and not be once a year. If you make it once a year, you might as well not have it at all, but have it so the official will not know what time the auditor is going to check up his accounts. Let us have it by a State agency, let us have uniform accounts, and let us put a stop to the system that is now going on in the different counties of the State. A few years ago we put over an act providing for a county auditor in some of the largest counties in the State, and in our county we have a county auditor, and his audit is no better than the audit by the Board of Supervisors. He is a man of the same political party; he is one of them, and he goes along with them, and you might as well not have a county auditor. Let us make it a State agency and let us have it done right.

Mr. DOVE (Shelby). I desire to offer an amendment to the amendment, by inserting "at least" before the word "annually" in the fourth line, so that the section would then read, "and to supervise such system at least annually and to audit the accounts of such offices". I think the purpose of the gentleman from Macon would be better subserved, and I think he will accept it.

Mr. MILLS (Macon). I will accept the proposed amendment.

Mr. FIFER (McLean). That would be practically impossible and very impracticable. The proper time to audit the accounts of an officer is when he retires from his office, and I think it would incur an unnecessary expense to have an annual audit of books. Possibly there would not be anything to audit.

Mr. GORMAN (Cook). I move to strike out the words of the amendment, and substitute therefor the word "regularly," regularly audit the accounts of such officers.

Mr. MILLER (Cook). I hope that last amendment will not be adopted. It seems to me the merit of an audit is that it is not regular, if regular means a regular time. If we had, for instance, our banks examined at regular times, the probabilities are that the audit would not be very effective, because they would get ready for it each time.

Now, just a word or two on the subject. Of course, we in Cook county are not particularly interested, not nearly so much interested in this matter as the people downstate. We have a county auditor. There are eight other counties that have county auditors, only. We are told some of these are not very efficient. There is no uniform system. I am told by delegates from downstate that there is a very large amount of money, school money and other money, lost, by reason of the fact that there is no audit, and of course if there is to be a system of audit, there ought to be a uniform system. For instance, any industrial concern that has numerous branches throughout the State could not very well allow each branch to conduct its own audit. A uniform system of audit tends to efficiency and the discovery of errors and irregularities. Now, we learn from the report of the legislative committee that uniform systems of state audit for county, township and school affairs have already been established in twelve of the states. Upon that question I want to say this: I agree on this matter with the delegates from down the State. We in Cook county have been so much interested in this matter for Cook county that is the very question, but on investigation I find in these other states as a rule this system has been adopted, not by the Constitution, and I urge that reason against this matter with some of

the downstate delegates, but they say their experience is such that you cannot get this sort of thing through the legislature. It is absolutely impossible. Whether that is so or not, I do not claim to have any information, but the downstate delegates with whom I have talked are unanimous in the belief that it will not go through, and that is the reason that operated in the committee for putting it in here. The fact is, in nearly all the counties of the State with these collecting and disbursing officers, they are absolutely without any audit. The State does audit all the banks and have a uniform system of accounting. Some banks have deposits of hundreds of millions. Other banks have deposits of hundreds of thousands, but they have the audit and they have the uniform system of accounting. Why should not they have it for the public collecting and disbursing officers, the fiscal officers of the State?

In Ohio, after establishing this system, they found that in one county there was a saving of seventy thousand dollars in ten years. They found in another county there was a saving of two hundred and fifty thousand dollars, and they found there was a saving all over the state. In another state, in New York, after establishing this system, they discovered shortages in thirty-six of the sixty counties. In Wyoming, after establishing this system, they found that the county expenses were reduced twenty-five per cent as a total. Those are the experiences of other states, and I give them to you gentlemen of downstate for what they are worth. They seem to me to be worthy of consideration.

Mr. TAFF (Fulton). This same section was before the Committee on County and Township Organization. The committee gave it considerable consideration. It did not report it out, however, for the reason they thought it was a purely legislative matter. One of the principal arguments urged before the committee for the insertion of this article in the county and township organization report was that an official audit might be made for the purpose of attempting to release official bondsmen of those officers who were handling public funds. We have already, I take it, adopted a section which provides that the legislature may provide by law for the release of official bondsmen. Section twenty-three of the Legislative Article provides "that the General Assembly shall have power to enact statutes of limitations barring all actions on any loan, indebtedness, liability or obligation, after the lapse of twenty years next after the cause of action shall have accrued. Provided, also, that any such statute of limitation shall require an official audit before the statute begins to run in the case of public officer." It seems to me the adoption of that section meets practically all the requirements of this section.

There is another objection to this section which I think is material and that is to this, the wording that says "a uniform system." I take it that if this were adopted a public auditor would probably be required to use one system only, and it is doubtful whether or not one system could be made which would apply to each of the counties in the State, and also to the towns and also to the school officers, and I think this limitation should not be in this section. In other words, the section should be so worded as to give the auditor the right to make such systems as he deems necessary to carry out the objects of this section.

With reference to the objection that the legislature will never enact such a law, I wish to call your attention to the fact that the legislature already has enacted a law whereby all road matters are now in a uniform system of accounts, and there is no reason in my mind why the legislature would not, if they saw fit, enact a law for the auditing of other accounts in the State of Illinois. Therefore I am opposed to the section for these reasons.

Mr. WALL (Pulaski). I think this section is one of the most far-reaching and important sections that we have heretofore acted upon in this Convention, and I very much regret that the venerable and eminent delegate from McLean county (Fifer) says that he thinks that the section should not be adopted.

I know from personal experience and to some extent from a wide observation of the conditions down State, that this section is imperatively needed by the down State counties.

What does it provide? It provides for audit of the books of the three public institutions down State that handle all the public funds in those divisions and those public funds amount to many millions of dollars every year. The law passed by the legislature spoken of by Governor Fifer produced no results of any moment. The illustration given in the home county of the gentleman from LaSalle (Scanlan) operates practically over the State. As was said, the auditor can use three men to do this work all over the State.

It is said here that section twenty-three of the Legislative Act is sufficient and all the results that can be obtained under this section can be obtained under that. What does that provide? It provides that the "General Assembly shall have power to enact such limitations barring all actions on any loan, indebtedness, liability or obligation after the lapse of twenty years next after the cause of action shall have accrued, provided also, that any such statute of limitation shall require an official audit before the statute begins to run in the case of a public officer." Why should these counties run along for twenty years or ten years or fifteen years, and then be audited and do without the money all the time, leaving the counties open for the officers to go wrong, and then have to sue to recover for the defalcation? That does not afford any remedy at all. It would be as ineffective as the remedy we now have. I know of two counties in the State that have been audited recently, and it was found that in one of those counties the officers had been behind for fifteen years. The result was a lawsuit and the recovery of probably one-fourth of the money due the people, and used by the officers during their terms of office. It was public money paid in by the taxpayers. There is another reason why it should be adopted, and that is this: It is done by the State of Illinois. It has a dignity and efficiency to it, that to some extent inspires the good and restrains the bad from going wrong. Every honest man would want his books audited at least once a year. He would be proud to have the report published in the paper in his county. Every dishonest man would be deterred from going wrong, because he would know that the hand of the auditor would be seen in his books and he would make his report and if he were crooked he would be exposed to the public. I think it is a splendid check to put in the Constitution, and I think it should be made an annual audit.

Mr. TRAEGER (Cook). I do not see why, if we are interested in the welfare of the people of this great State why any man who is interested should object. I want to say further of every office-holder who wants to do that which is for the best interest of all the people of this State, for the best interests of himself, I do not see why he should object to section 29. We have an audit system in our banks. The banks handle the public's money. Why should we not have an audit of the public officials' accounts, because they also handle public money? The public officials who believe in doing what is absolutely right will not object to this audit. They tell you that they have established an audit system of their own. You and I have lived to see where men in public office have misappropriated funds from time to time that belong to the citizens of their respective counties, and we have heard charges made upon the floor of this Convention that men should not succeed themselves in public office for the reason that they might misappropriate public funds for their own private use. If we do not pass this section 29, I want to say to you that you and I are parties in assisting those who may be elected to public office and who do not perform their full duty.

A great many who are in this room today have held public office, have handled public funds, and I want to say to them that if they were to hold office tomorrow, would they not feel much safer if they knew that the auditor of accounts of this State would go to their accounts from time to time and if they were correct, give them a clean bill of health, and if through some employee who might be working for them, that a shortage existed, that he would be familiarized with that condition? Is there one

man that would dispute that as being just and right for the people? I care not what the county is, and I believe the time is not far off when every state in the Union will adopt the system and get away from the so-called auditing system in the respective towns and counties where the auditors belong to the same political family. If we are interested in showing political favors, gentlemen, we do not want to pass this, because we are going to have the auditor elected by the people of the State to look into our affairs, and I want to say to you for one, that I am in favor absolutely of an audit of every public official, and I want to say further that while in the office of city treasurer of the City of Chicago, I went personally and requested Mayor Busse and his city council to supply me with a certified public accountant who would make for me a monthly audit of the work done in that office, showing my deposits, my withdrawals, interest upon the money, what banks deposited in, and to give a copy to the city council and the mayor of Chicago. I had nothing to shield, and it put my mind at ease to know that if any man who was in my employ went wrong, I had the knowledge and could proceed to do just what was necessary to recover the money.

There is an amendment pending which says the auditing should be done annually. Why make it annually? Why give notice that on the 15th day of December, that the Auditor of this State shall be at my office and about the same time next year he is going to come? If I am dishonest, it will give me an opportunity to cover up, if covering up is possible. As to the expense of this auditing, as Mr. Miller of Cook has stated, the county is not going to have any expense. There will be sufficient savings to pay all the expense tenfold.

Therefore, gentlemen, I hope that the annual clause will be omitted or the amendment be defeated, and leave that audit as it is, and that section twenty-nine will pass for the good of all people of this State. (Applause.)

Mr. TAFF (Fulton). Does this apply to cities, this section?

Mr. TRAEGER (Cook). This applies to counties, towns and school offices.

Mr. TAFF (Fulton). Then it does not apply to cities?

Mr. TRAEGER (Cook). It is not worded that way, no.

Mr. TAFF (Fulton). Another question? Would this section, if adopted, preclude a county from hiring some other auditor for the auditing of the public accounts of the county?

Mr. TRAEGER (Cook). No, sir; it does not prevent them from doing that, but it does not bar the auditor of the State from doing his work also. If the county feels like adding one more certified accountant, it does not prevent that.

Mr. TAFF (Fulton). Do you think a local appropriation could be made for auditing of public accounts outside the State Auditor's office?

Mr. TRAEGER (Cook). I do not think it is necessary. I believe the State Auditor is competent to handle that work as he would be to handle the auditing of all the State banks within the State of Illinois.

Mr. TAFF (Fulton). What I was getting at is, I understand you have a certified accountant who is on the job all the time.

Mr. TRAEGER (Cook). No, sir; I said they had an audit made once a month, which left us knowing where we were, because of the fact that we handled such enormous sums of money in the city of Chicago.

Mr. TAFF (Fulton). Would it require an auditor paid by the State to take care of that audit and be on the job practically all the time?

Mr. TRAEGER (Cook). Not necessarily all the time. He would come, for instance, as he comes to banks. He may come to the bank today, and he may come in six months, or he may come there in four months. We do not want to set a specified time for him to come and do his auditing, but he should come just as a bank examiner comes, not on a certain day.

Mr. TAFF (Fulton). I agree with the delegate (Traeger) that there should be no specified time set for the audit.

Mr. TRAEGER (Cook). Gentlemen, you will find it to be one of the best propositions for the benefit of the public and the official, if he wants to be square.

Mr. MOORE (Macon). I agree with all the delegate from Cook has said with regard to the auditing of accounts. Any man who has held trust funds, if he is honest, is not only willing but anxious that his accounts should be audited promptly, and I am in favor of the amendment as it now stands for an audit at least once a year at no fixed time, as stated, and I hope the amendment of the gentleman from Shelby (Dove) will prevail.

Mr. JACK (Jasper). Delegates of the Convention: I do not know that I can add any information to what has already been said on this subject. I desire to speak on the subject and to go on record on the subject from the fact that I believe that I have personal knowledge and personal experience of the great necessity for this provision in our Constitution. I not only speak from what we might observe on common honesty, but I speak from a life experience in observing these things and coming in personal contact with them.

In my early manhood days, I happened to be thrown into a position connected up with county officials where they handled money of the people of the county, and today when I look back over that experience, at times there comes to me a dread of what might have happened, and in early experience and seeing the great danger that public officials are in, I made a resolve and since that time I have personally been responsible for the handling of other people's money, and I personally regard that what ever might come, whatever friend I might know, no man should ever obtain from me in the way of accommodation a loan of one cent of money that was not my own and that belonged to somebody else or to a public treasury.

The delegate from Cook county has said that we have these defalcations over different parts of the State at different times. I want to say to you, gentlemen of this Convention, I do not believe the people of this State or of the different counties of this State ever know of one-tenth part of the defalcations of the public funds of the county, and the times that public officers have made themselves liable to prosecution for the mishandling and misappropriation of the funds that belong to the people. I am in favor of this article as it is reported by the committee.

I am opposed to the amendment because I believe that that article is broad enough to meet the situation. I fear if you throw in these amendments you will make it ineffective. From my personal experience now I call to mind in my own county the defalcation of the county treasurer. It was not a second term county treasurer, but a first term county treasurer, and I want to tell you that I believe that that man was as honest a man as ever breathed the breath of life, but his surroundings were such, his friendships were such, his inclinations to accommodate his friends were such that in the brief period of a single term of office he found himself short, but an audit of his accounts would have saved that defalcation.

I call to mind from my own county a school treasurer whom I knew in my early days as a country school teacher, and who served for probably twenty-five years as a school treasurer, and wound up in his old age with the stigma upon him as a defaulter as a school treasurer. That man was an honest man, yet there was no efficient system of auditing his accounts, neither by the trustees nor the county superintendents of schools of that county. Years afterwards my own party elected a county superintendent of schools. That county superintendent of schools assumed his duty, and he inspected and audited the accounts of the county treasurer and he unfolded this shortage. As I said this should be done by the State auditor, because that man did a public service to that old gentleman who served for years as a school treasurer, and I know that afterwards that county superintendent incurred the enmity of some of his own political party.

The honorable delegate from McLean county said they have an efficient audit in his county. I can only speak from the experience of my own county, and it is a joke. Why? Because men are called to audit books about which they know nothing. Men are called to audit books of accounts who do not

know the first principle of auditing nor the principles of debit and credit. They are political friends and associates. Honest, yes of course they are honest, I am not saying these men are not honest, yet I say from the fact of auditing those books, they know no more about it afterwards than they did before they began.

I want to speak from my personal experience. I served many years in which I was subject to an audit by an auditor of the State fund. I also had inspection of accounts from a board of directors. I know how they audit, and they were men above the average in ability of the usual county auditing committee. I took great pride in the fact I had drawn up a system of accounts and those fellows almost got out of patience with me trying to show them where these things were. The audit was a joke because they knew nothing about the accounts. It was me trying to show them. Yet, when the auditor came, (my good friend E. L. Dunlap would come in, and I did not know when he was going to come) all he asked me to do was to turn over my books to him, and I turned them over to him with the remark "if you find a mistake call my attention to it, and I will show you where you are wrong." It was a kind of a boast but I always made good with it. Why? Because I had that spur back of me. I want to say to you, in my opinion, with this provision adopted we will save large sums of money to the tax payers of this State.

I can go back to at least two other instances of school treasurers in my county. I happened to be in a position for a few years there that when these things occurred I knew of them. I happened to be in the county treasurer's office when the whole system of the office was condemned, yet in that four years time those officers all over the county, their accounts were straightened out and they accounted for this shortage of money. And I do not believe one-tenth part of these defalcations ever come to the public notice that we have had in these small offices. From that time I have been in favor of a thorough system of auditing.

I talked a few days ago to the county superintendent of my county and he asked if I would not do what I could to get a system of auditing. Why? Because he realized the necessity of it. The school superintendent in many cases is not an accountant, he is a man who gives his attention to educational affairs. In fact, in my county those who were acquainted with the system of accounting thought it was a joke when they proposed a school teacher for something of that kind, because nine times out of ten he was not efficient, knew nothing abouts accounts but was a good teacher. Why? Because he was not specially trained in that direction. I want the men trained and sent out from such a source that they have no personal interest or influence on the one being audited.

There is another evil existing in this question. I know in my own county a few years ago the Republicans got on the board of supervisors and they wanted to investigate county officers, and they hired an expert to be assisted by a local man, and as has been suggested by the gentleman from LaSalle (Scanlan) they built up a system, and they got a shortage on one of the county officers of that county for whose special benefit they had been appointed. That county officer belonged to the opposite political party. Yet there was a system built up and he was sued on his accounts. It resulted in nothing, simply because the auditor had been employed for a specific purpose, and that purpose was to find fault with that officer. I incurred the enmity of some of my political friends by refusing to lend myself in furtherance of the scheme of trying to besmirch the character of this man, who was an honest officer. You remove that when you have a man appointed by the State auditor; you avoid that difficulty. I want to say to you now it is my experience in my home county and counties surrounding me that these expert accountants that we hire to investigate accounts are hired to make political capital, and the result as a rule is utter failure, and for this reason I want to record myself in support of this section as introduced and opposed to the amendment, because I think it is wrong and not broad enough to permit a correct auditing of accounts. (Applause.)

Mr. GORMAN (Cook). I introduced an amendment for the purpose of bringing about frequent audits, but I have come to the conclusion after due consideration that the word I suggested might not be the best one to be employed, and I therefore would like to withdraw the amendment.

CHAIRMAN TRAUTMANN. By unanimous consent the delegate from Cook (Gorman) withdraws the substitute amendment. The question reverts on the amendment offered by the gentleman from Macon (Mills), which was amended by the gentleman from Shelby (Dove), accepted by the gentleman from Macon (Mills) by the addition of the words, "at least annually."

The Chairman desires to state when this matter was under consideration of the committee no words of this kind were put in because the idea was simply to provide for an audit, and if the audit was not made regularly or at stated intervals, there was nothing to prevent the General Assembly from passing a law further defining the duties of the auditor. The question is on the amendment of the gentleman from Macon (Mills).

(Amendment lost.)

Mr. HAMILL (Cook). I now desire to offer the amendment which I sent up to the desk, striking out "uniform" in line two, and inserting after the word "system" "uniform within classes."

Just very briefly it occurs to me that the section as it now reads would require a system uniform in all counties. After talking with some who know a great deal more about county accounting than I do, I am persuaded that a system available in Cook county would not be available or desirable in some of the smaller counties. It seems to me the systems of accounting employed might well be made uniform within certain classes, and the purpose of my amendment is to accomplish that result.

Mr. MILLER (Cook). I do not claim to have any superior information on the subject, but I know that the gentlemen of the Legislative Committee of the Forty-seventh General Assembly appointed to take up the matter of making a general revision of laws pertaining to county and township organization reported after a rather exhaustive study in favor of a uniform system of accounts. What their reasons were I do not know, but I know that they corresponded with all the counties in this State upon that and other subjects.

Mr. GALE (Knox). I have been rather perplexed—perhaps it is my fault, but I do not see it clearly—does this system require an examination by the auditor similar perhaps to the examination of banks or of the post office inspection system, or would it be carried out if the auditor were simply to provide a system and furnish blanks, and examine those blanks when they were returned to his office, or would it require a thorough supervision and examination of the accounts of these offices? I wish some member of the committee would set me straight on this proposition. I am in favor of the section, if it means a real examination and supervision.

CHAIRMAN TRAUTMANN. As I said before, the idea of the committee in putting this section was to lay the foundation for the audit system, and then if it was not carried out satisfactorily by the auditor it could be remedied by appropriate legislation. That was the idea.

Mr. GALE (Knox). I suppose, Mr. Chairman, that this matter is really legislative; that we are putting it in here because in all these years the legislature has not seen fit to do it and we want a direction to them in some way that it shall be done.

CHAIRMAN TRAUTMANN. That is the idea.

Mr. GALE (Knox). Is this sufficient to carry out the system that those who are in favor of this section would like to see carried out?

CHAIRMAN TRAUTMANN. That is the idea of the committee, that this was legislative matter, but that the legislature had not passed the necessary laws instructing the auditor to perform these duties.

Mr. GALE (Knox). Are you satisfied that these words are apt to insure such an audit and examination of these accounts?

CHAIRMAN TRAUTMANN. I am to this extent. If it does not, the legislature would very likely pass the necessary legislation, if the auditor was making an audit that was not satisfactory to the various counties and school districts.

Mr. TRAEGER (Cook). As I understand this, the audit would be the same as the audits in a bank. The fact that I, as a public official, certified over my name that a certain condition existed in my office would be no audit. The audit would have to be made by the auditor on the premises.

Now, so far as uniform system is concerned, I do not know what we mean by "uniform system" or "classification" as introduced by the amendment. If we are going to have a system it should be uniform. In the banking system, whether a bank has a capital stock of two hundred thousand or a capital stock of twenty million, the banking system is uniform. It matters not whether that is a large or a small bank. Now, what does it signify whether a county has a population of ten thousand or ten million? The system should be uniform so far as a system of accounting is concerned in my judgment. The work would be greater in a large county than in a small county, the system would have to be carried out on a larger scale, but if you are going to have one system in one county with a population of forty thousand, and another system in a county of one hundred thousand, you are not going to carry out the intent of section twenty-nine, because it will not be uniform. If you are going to have any system, let it be uniform as in the audits of banks, whether the bank has a capital of one hundred thousand or one million.

Mr. DUPUY (Cook). The last words in the fourth line seem to me to make it perfectly plain and clear that it is the duty of the auditor to make a thorough examination of the accounts. The words read "and audit the accounts of such officers." I move the debate be closed and we proceed to take a vote.

CHAIRMAN TRAUTMANN. The Chair recognizes the gentleman from Fulton (Taff).

Mr. TAFF (Fulton). It seems to me the wording in section twenty-nine, if adopted, would delegate to the auditor of public accounts legislative power. If we once establish the system, in my opinion, if this section were adopted, and the legislature could not amend or modify that system, and the entire power to establish and supervise this system and to audit the accounts are solely delegate to the auditor of public accounts and the legislature at no future time could take from him that power, if this is adopted in the Constitution.

Mr. KERRICK (McLean). I desire to ask a question. Isn't this a self executing provision of the Constitution with which the legislature may or may not have anything to do. I will read it: "The auditor of public accounts in addition to his duties prescribed by law shall be required to establish a uniform system for the conduct of the fiscal affairs and accounts of all county, town and school officers, and to supervise such system and to audit the accounts of such officers."

The question is, is not that provision, standing as it does without any suggestion that these things shall be provided for by general laws or by law, isn't this a direction that the State auditor should prepare a system of auditing and hire the necessary help to carry out and operate that system and to superintend the entire work? Isn't it a direction in the Constitution that the auditor of this State take upon himself and his office the entire creation and operation of that system of auditing? Isn't it a matter that the legislature is called upon to have nothing to do?

CHAIRMAN TRAUTMANN. If the legislature took no action, that this would be self-operating, that the auditor would have to establish some system?

Mr. KERRICK (McLean). Can't the auditor determine upon a system and the necessary assistants in his office to put that system in operation and determine the policy and expense, all within his own control and according to his own views as to what should be done?

Mr. HAMILL (Cook). Do I understand you to maintain the section means exactly what it would mean if it were phrased this way, "the Auditor of Public Accounts in addition to his duties prescribed by law shall establish"—do you understand "shall be required to establish" means the same as "shall establish?"

Mr. KERRICK (McLean). Yes, it does.

Mr. HAMILL (Cook). I am in doubt.

Mr. KERRICK (McLean). However, I am asking for information on the subject. I see very little difference between saying "an officer shall do a thing" or "shall be required to do a thing." If I am employed in a certain position and my employer says to me "if you take this position you shall be required to do so and so," I think it is the same as if he would say "if you take this position you shall do so and so."

Mr. FIFER (McLean). I think you are right. If you will note the section starts out by saying that "the auditor in addition to his duties prescribed by law"—now, what law? In addition to his duties, he should do certain other things, that would necessitate some law to put it in force. It says "in addition to the duties prescribed by law," and if there is other legislation, why, of course that is according to law, so there must be reference to two enactments instead of one. I think if it should be contemplated that it should be through legislation, it should be in addition to the ordinary duty of the auditor as prescribed by law. Then the section goes on to say, and to impose upon him other duties. In the first reference to law, you refer to the last law as well as the first.

I would like to say also, from the speeches that were made after I took my seat I fear I did not make myself understood in what I said. I did not intend to declare either for or against this provision. I said that it was of doubtful propriety, in my judgment, and I still think so, and I speak out of the experience I have had in my own county. For years we have had expert accountants go over the books of our county officers, and expert accountants outside the county, and throughout all the years that that has been going on we have never had anything approaching defalcation. Now, it seems from the remarks of our friend from Jasper (Jack) that they had a pretty rough time down in his little county and I avow if that extends to any considerable extent throughout the State, I think I would vote for this myself.

I wished to get this question fairly before the Convention, and my only object in addressing the Convention in the first instance was to get before them clearly the questions involved in this matter.

Now, it has been said that this is public money that the provision deals with. That is true, but in nearly every instance, I may say, except insofar as the treasury is concerned, the State of Illinois has no interest whatever in the funds handled by the respective county officers. The county officers before the new Constitution were paid their fees and that constituted their salary. The Constitution of 1870 changed that. They collected their fees as they did before but are required to make report to the chairman of the board of supervisors, and their salaries are fixed, and they are paid their salaries out of the fees of their office, and if there is any surplus it goes into the county treasury. Now, it seems to me that it is a local matter, and that is why I characterized it as a provision of doubtful propriety. It concerns the county, the school district and the respective townships in that district, and they being familiar with all the circumstances, and they being personally interested, I thought possibly it was well enough to leave it just as it was so far as the county treasurers are concerned they report to the auditor, to the treasurer of the State, and it is their business now, of those respective State officers, to see that a proper accounting is made. Now, it was in my mind to concentrate all their power in Springfield in one office and not only audit the books of the respective counties, but the townships as well. Now, how many townships there are in the State of Illinois I am not able to state; and if any gentleman in this Convention believes that it is safer to prescribe a uniform method and to have the books audited through the auditor's office, well and good. My mind is not fully made up and I scarcely know upon which side I will fall when the vote is taken. Now, the tendency is to concentrate the work in one office and it will take a great many accountants over the State of Illinois to do this work. In regard to the language of the section under consideration, if we are going to depart from the old system, it seems to me it is in just about as good shape as we can make it.

Now, gentlemen, if there is the same difference in the conditions prevailing over the State as in the County of Jasper, there might be some reason for departing from the old system and adopting this provision as part of the Constitution, but we have had no such experience; in all the years that the present Constitution has been in force we have had no such experience in the County of McLean.

CHAIRMAN TRAUTMANN. The question is on the motion to close debate.

(Motion prevailed.)

CHAIRMAN TRAUTMANN. The amendment is to strike out in line two the word "uniform" and insert after the word "system" "uniform within classes."

(Amendment lost.)

CHAIRMAN TRAUTMANN. Any further amendments?

Mr. SNEED (Williamson). I have an amendment, Mr. Chairman. Amend section twenty-nine in line two after the word "required," insert the words "in accordance with the laws passed by the General Assembly," and in line three, after the word "town" add the words "city and drainage districts."

In offering this amendment I am in hearty accord with the major portion of this section as submitted by the committee. It has been my unpleasant position in times gone by while filling town offices to have to get into the office and punish men because of misappropriation of funds. I feel we should have a uniform system that covers cities and drainage districts as well. So far as the expense that might be incurred, it is a legislative matter. It strikes me also that the Constitution at this time should not provide a uniform system, that it may be we may want to get away from that if necessity demands it in the future, or change by the General Assembly.

Mr. LINDLY (Bond). Would this include cities?

Mr. SNEED (Williamson). Yes.

Mr. LINDLY (Bond). Then I am against it. Then the auditor would have to audit the accounts of all the cities in the State.

Mr. SNEED (Williamson). He would supervise the auditing of the accounts.

Mr. DUPUY (Cook). It is obvious that this covers two subjects. I ask that there be a division.

CHAIRMAN TRAUTMANN. There will be a division.

Mr. ELTING (McDonough). I offer the following as an amendment to the amendment offered by the gentleman from Williamson, (Sneed). Amend section twenty-nine by inserting after the words "accounts" in line three the words "for the use" and by inserting in line four of said section after the word "to" the words "require and." And after the word "audit" in said line four the word "of."

(Amendment lost.)

CHAIRMAN TRAUTMANN. The question now reverts to the question offered by the gentleman from Williamson (Sneed), the first part of the amendment, the section amended by inserting after the word "required" in line two the following words: "in accordance with the laws passed by the General Assembly."

(Amendment lost.)

CHAIRMAN TRAUTMANN. The second part of the amendment is in line three after the word "town" add the words "city and drainage districts."

(Amendment lost.)

CHAIRMAN TRAUTMANN. The question is on the amendment to adopt section twenty-nine.

(Section twenty-nine adopted.)

CHAIRMAN TRAUTMANN. The Chair will entertain a motion to adopt the article as a whole.

Mr. CARLSTROM (Mercer). I move that the article as amended be adopted.

Mr. MILLS (Macon). I move a reconsideration of the vote by which section fourteen was adopted. I voted in favor of adopting that section.

Mr. LINDLY (Bond). I would like to have the delegate from Macon give a reason for it, so we will know why we are voting on this.

Mr. MILLS (Macon). It is because I thought I was voting for a proposition that would be in full accord in my view, but I have determined since that time it is not, "Section 14. The Governor shall be commander-in-chief of the military and naval forces of the State (except when they shall be called into the service of the United States); and may call out the same to execute the law, protect life or property, endangered by any public disaster, suppress insurrection and repel invasion."

Mr. BARR (Will). I desire to say a word on this motion to reconsider the vote; it occurs to me from a careful reading of this section fourteen as amended, that this Constitutional Convention may have adopted a limitation on the power of the Governor of this State to call out the militia beyond which it was the intention of the delegates to limit the power of the Governor.

It appears from the discussion that occurred during the consideration of the matter when it was discussed yesterday, that for some purposes at least, it appeared that it was in minds of the committee that the Constitution as it now stands was sufficient to enable the Governor to call out the militia for those purposes. However, the Committee on Executive Department has reported to this Convention, in addition to the language contained in the old Constitution, the words "protect life or property," and whether or not those words are necessary, in order to give the commander-in-chief of the militia or the Governor of this State the power to call out the militia for the purpose of protecting life and property.

It seems to me that it cannot be possible that any delegate in this Convention will assume that the Governor of the State of Illinois ought not to have the power to call out the militia of this State for the purpose of protecting life or property of its citizens. What is the purpose of the law? As I understand it, we are here to write the basic law of the State of Illinois; upon it the power of the executive and the judicial and the legislative to a considerable extent, rests, or at least it limits the power of the legislative department insofar as making laws are concerned. Now, then, is it contended that it is improper to provide in the Constitution that the Governor may have power to use the militia for the purpose of protecting life and property? Why, it seems to me that that is the very purpose for which the militia should be called out, if necessary, and we have limited that power beyond what existed in the old Constitution. If the old Constitution gave the Governor the power to call out the militia for these purposes, we have now limited him. He may only now call out the militia to protect life and property when endangered by public disaster. In other words, under all other conditions and circumstances, no matter what they may be, a Governor of this State shall not have the power to call out the militia for life and property unless endangered by public disaster.

I want to say this, I believe we have got to face these matters fairly and squarely. We are here for the purpose of writing the Constitution for all the people of the State of Illinois, and it occurs to me that we ought to write in this Constitution what we think should be there for the best interest of this State and the people of this State, and we ought not in the Constitution of this State limit the power of the Governor of this State to use the military power of the State to protect the life and property of its citizens unless in case of public disaster. So, gentlemen of the Convention, we should reconsider this vote and we should leave in this report there the words as they now stand, or at least leave the record clear so that it may appear to those who read the record of this Convention hereafter that it was not our intention to limit the power of the Governor to use the militia only in certain designated instances where life and property of the State was endangered. And, gentlemen, it occurs to me that any one in reading the discussion that occurred here yesterday and in reading the report of this committee, reading the amendment that was offered and carried could only arrive at one conclusion and that is it was the desire of the delegates of this Convention, we who sit here representing the people of the State of Illinois writing the fundamental law

for the people, the fundamental law of the people, whereby they agree to be governed in the years to come to write in it a condition that the militia of this State—that life and property shall not be protected by the power of this State excepting under some certain particular conditions. I think instead of that we should write in this Constitution plainly so that everybody may see it and understand it, that it is the intention of the people of this State and of this Constitutional Convention that life and property shall be protected, and every power that is necessary to do that thing shall be reposed in the proper officer of this State, and I say this vote should be reconsidered so as to properly indicate what the intentions of the delegates of this Convention really are.

Mr. CARLSTROM (Merver). I would like to ask the gentleman from Will a question. You have correctly stated what ought to be the attitude of this Convention with reference to the protection of life and property, and I agree with you. Isn't it true that under the expression as contained in the old Constitution, "the Governor shall have the power to call out the militia and execute the law," that all the protection of life and property that could be exercised was given.

Mr. BARR (Will). I think in reply to the question of the delegate from Mercer (Carlstrom) that if the report of the Committee on Executive Department had not included the words that have been referred to, and if there had not been written into this section the limitation that we have written in it, your position would probably be correct.

Mr. CARLSTROM (Mercer). Don't you think it is absolutely correct? That when the Governor had the power to call out the militia that he thereby had the power to protect life and property to the full extent.

Mr. BARR (Will). If there had not been any change in the Constitution, it would have been so.

Mr. CARLSTROM (Mercer). I am speaking, and if the delegate will understand, I am speaking that it should be in there, would that authority alone that the governor could call out the militia to execute the law, if that was not giving him all the rights for the protection of life and property that any man is entitled to ask?

Mr. BARR (Will). I cannot say.

Mr. CARLSTROM (Mercer). Has the experience of the State of Illinois been lacking?

Mr. BARR (Will). It has been questioned on a number of occasions.

Mr. CARLSTROM (Mercer). Wasn't it on this one occasion, the occasion when the militia was called out to build embankments and to do manual labor to protect property?

Mr. BARR (Will). I understand that the question has been raised in cases of protection of property to keep it from being stolen, after a fire or storm.

Mr. CARLSTROM (Mercer). That would be a public disaster, would it not?

Mr. BARR (Will). That particular thing would be a public disaster, but I cannot see all the occasions which might arise that would come under the definition of "public disaster."

Mr. CARLSTROM (Mercer). Let me ask you this, if this proposal or the section as it stands now before the committee were amended by inserting the word "and" between "law" and "protect" in the third line, it would show that the Governor could call out the militia to execute the law in addition to calling out the militia to protect life and property.

Mr. BARR (Will). Do you think there should be any exception to the rule that the Governor should have the power to protect life and property, no matter what the situation is? Any provision that excepts any situation so that the governor may not protect life and property then let us write into the Constitution the Governor may use the militia except under certain conditions.

Mr. CARLSTROM (Mercer). You put the question in the matter similar to the proposition made to the fellow who said he could always answer a question by yes or no, and the question was asked whether he should con-

tinue to beat his wife, or stop beating her. You proceed to put me in the position of saying that the militia could not be used to protect life or property, and I take this position, that under the laws of Illinois that whenever life or property is endangered that the militia can be employed, but when you go outside that field you open the way to the abuse of that authority. It ought not to be in here, and I suggest that the word "and" cures the whole situation.

Mr. DUPUY (Cook). I voted in favor of this amendment, very much regret it, and I further state that I am very much opposed to it on principle. I do not think that we have reached the limit of consideration of this question, neither do I think we can properly do so at this time. There are so many vacant seats it would not be wise or desirable that this should be forced to a vote at this time. I think it should go over until the delegates are in their seats at the next session, and I move that the committee rise, report progress and ask leave to sit again.

(Motion prevailed.)

(President Pro Tem Hamill presiding.)

Mr. TRAUTMANN (St. Clair). I desire to report that the Committee of the Whole reports progress and asks leave to sit again.

(Report adopted.)

PRESIDENT PRO TEM HAMILL. What is the further pleasure of the Convention?

Mr. TRAUTMANN (St. Clair). I move that the Convention do now adjourn to reconvene on Tuesday morning, June 15, A. D. 1920, ten o'clock a. m.

(Motion prevailed.)

Whereupon an adjournment was taken by the Convention to Tuesday, June 15, A. D. 1920, ten o'clock a. m.

TUESDAY, JUNE 15, 1920.**10:00 o'Clock A. M.**

Convention convened pursuant to adjournment.

The President in the chair.

Prayer by the Rev. J. G. Wright.

THE PRESIDENT. The Journal of June 2, 1920, was placed on the desks of all of the delegates at the last session of the Convention. The Journal of that date is now subject to correction. There being no corrections, the Journal of Wednesday, June 2, 1920, will be approved, and it is so ordered.

Whereupon the Convention proceeded upon the order of reports of standing committees, reports of select committees, introduction of proposals, first and second reading of proposals, motions and resolutions.

THE PRESIDENT. There are a number of matters pending on the general orders of business, and the Convention will now resolve itself into a Committee of the Whole for the purpose of considering matters on the general orders. The Chair designates Delegate Trautmann, of St. Clair, to act as Chairman of the Committee of the Whole.

(Chairman Trautmann, presiding.)

CHAIRMAN TRAUTMANN. The committee will be in order and the Clerk will read the minutes of the last meeting.

(Minutes read by the Secretary.)

CHAIRMAN TRAUTMANN. The question before the committee is the motion made by the delegate from Macon, Mr. Mills, moving a reconsideration by which section 14, as amended, was adopted.

Mr. MICHAELSON (Cook). May I ask if the record shows whether Delegate Mills voted with the prevailing question?

CHAIRMAN TRAUTMANN. I asked the delegate whether he did, and he said he did. There is no record kept of these motions, he stated he voted with the prevailing side, and then made the motion for reconsideration.

Mr. WHITMAN (Boone). I ask the Clerk to read the section as amended.

(Whereupon the Secretary read the amended section.)

Mr. MICHAELSON (Cook). May I ask a question?

CHAIRMAN TRAUTMANN. Will the gentleman yield to a question?

Mr. WHITMAN (Boone). Yes.

Mr. MICHAELSON (Cook). I would like to have the delegate from Boone state for what reason he thinks there should be a reconsideration, for what purpose?

Mr. WHITMAN (Boone). I did not get the question.

Mr. MICHAELSON (Cook). I say what is the purpose of your motion to reconsider?

Mr. WHITMAN (Boone). Simply because, as I stated when I made the motion, I thought that the amendment covered what I thought should be the meaning of this section and what I was in favor of; but, after an examination I found it did not, and I do not believe the section as amended is broad enough, because it involves a public disaster or public danger to the population.

I believe that the safety of the citizenship and safety to property is important, and I do not believe it is necessary for the Governor to wait until it becomes a general disaster.

We have had illustrations in this State where, if the Governor had interposed to protect life and property, it would have avoided great disaster, and a great stain upon the escutcheon of the State of Illinois, that is my

reason. There is no danger that the Governor using this extraordinary privilege or right will do so without due consideration, and I do not believe in tying his hands so that he cannot do it when he believes that the emergency has arisen for the protection of individual life or property, and that is why I made the motion to amend, because this section as it stands is not broad enough, in my judgment, to interfere in that kind of a situation.

Mr. MILLS (Macon). When this matter came up before the Committee of the Whole two weeks ago, I felt that the words that were added to the committee's report, which indicated that the Governor could only protect life and property in case of public disaster, and those were the words as I remember them, "in case of public disaster," were words of limitation, and I felt that there should be no limitation upon our Governor's right to use the militia of the State in case of danger to life or destruction of property.

We know there have been needs and there will be needs in the future when the Governor should have the authority to call out the militia in case of public disaster. We have our floods and mine disasters and all those things that come at times that we do not anticipate, so the Governor should have the unquestioned right, but we should not specifically limit that right to cases of public disaster, because it is just as important that the Governor should have that right in cases of public disorder as in cases of public disaster, and I feel that these words will limit him to the use of the militia in those particular instances specified.

Someone has said, or did say, in the debate when we last left this subject, that the expression "law and order" will protect and take care of that proposition. I am afraid it would not be interpreted that way, because when you specify and generalize from an expression like "law and order," there is danger of an interpretation the wrong way, and that is the only condition under which you can use the militia. So I think there is a danger that our courts will misinterpret this, or interpret it in such a way that the Governor's authority will be limited. On the other hand, I believe that we should reconsider this and revise it by striking out the words "public disaster," so that the Governor can do it either in that case or any other case. I know it will not endanger organized labor. I know no Governor would be foolish enough to try to settle labor disputes through the militia. It is ridiculous to think of anything like that, or that anything like that will happen. As a matter of fact, the Governor of this State is a friend of organized labor, and is a Governor who will act promptly to prevent any loss of life or property in case of industrial disputes or strikes. So, I maintain, to be a good friend of organized labor we should let the Governor have authority on hand, and I hope we will reconsider this section and let the Governor have unlimited authority.

Mr. DUPUY (Cook). I voted for this section, and my reasons for so doing were substantially those stated by Mr. Mills. I believe that the protection of life and property are two of the fundamentals of government, which would fail certainly if this Convention placed itself in the position of denying power to the Governor to protect life and property.

I did not realize to what extent, as I think I do now, these added words limited that power.

I do not believe the power of the Governor to protect life and property should be confined to those cases where it is endangered by some public disaster, and I therefore hope that this motion to reconsider will carry and that we may eliminate the words added by the amendment.

Mr. MICHAL (Cook). When this matter was up before, I asked the question of the committee why those words were inserted, and we were told it was in order to make it possible, without embarrassment, for the Governor to call out the militia in case of a public disaster; it was not intended to be used as a weapon against labor, and the amendment offered for it was offered with that idea in mind, to set that limitation upon the powers of the Governor so that there would be no mistake about how the militia were to be used, and that labor could have found no complaint.

I believe, Mr. Chairman, that the Convention acted wisely in adopting that amendment and checking this power of the Governor, and besides the use that the militia could be put to in case of strikes or disorders of any kind occasioned by some temporary disturbance in a community, I believe that this would be a source of great embarrassment to any Governor, as any manufacturer or any owner of property who felt his property was in danger for the time being, for some reason or other peculiar to that community, could demand of the Governor, on a moment's notice, that he send the militia, because his life or his property was in danger, and it might not be in danger, but he might think it was.

The Governor under this section, or under this provision in the Constitution, would be compelled to send the militia to the relief of this person or he would lay himself to impeachment as not complying with the provisions of the Constitution. I do not believe any Governor would want to be embarrassed in that manner. There would be a constant conflict with labor as a result of the injection of those words into the Constitution.

Who is it that asks for this change? Who wants those words inserted?

I would like to ask these delegates if there is any demand on the part of the people, the voters in your district for you to come down here and insist that these words shall be included in this Constitution. If there is a demand, it must come from somewhere. If it comes from somewhere, it can only come from the employers of labor or the owners of vast properties, which in case of temporary disturbances, caused by labor trouble possibly, would be in danger, and the Governor would be compelled to send the militia on the request of the party concerned.

I say it is very dangerous to include those words, and they will cause no end of trouble industrially and socially if they are put into the Constitution without a limitation, and I hope the Convention will vote against the reconsideration of this cause.

Mr. MACK (Hancock). Mr. President and fellow-delegates: I favored the section and I also favor now the motion to reconsider, because I think we have unduly restricted the Governor with the insertion of this clause. I think the Governor should be free at all times, whenever the civil authorities fall for any reason to enforce the law, to be able to call out the militia if necessary, and I think the wording of the amendment in this section limits him even beyond what I thought it did when I voted for it, so I shall vote to reconsider this section.

Mr. DEYOUNG (Cook). The gentleman from Cook who spoke last, or next to last, I am very much afraid conjures up a number of possibilities under section 14 that do not exist.

He says the Governor would be compelled, if the words which it is now sought to strike out from the amendment by reconsideration, are stricken out, that it will compel the chief executive of the State on the demand of employers to call out the militia to settle labor disputes. No such inference can be derived from the language of this section as it stands, because it is entirely in the Governor's discretion to call out the militia in case of such a contingency. There is nothing mandatory in this section. The Governor of the State has certain discretionary powers under section 14 as it exists, and as it is proposed to make it read, if the reconsideration motion shall prevail. He may call out the same, referring to the militia, to execute the law and to protect life and property endangered by public disaster, as it now reads, and striking out the last few words "protect life and property may call out the militia" not only for this purpose, but to suppress insurrection and repel invasion.

Can there be any objection, it seems to me, on the part of any citizen of this State who believes in the supremacy of the law to this? The law, I say, not the idiosyncrasies of any public officer, but the administration of the law must necessarily be for all classes and for all conditions, so that there may be an administration of the law, irrespective of person or class.

There is nothing here which requires the Governor to, at the behest or demand of any man or set of interests, if you will, call out the militia for any purpose.

The same gentleman asks, where does the demand for those specific words come from? From whence is the demand, he asks, for this change? Why, gentlemen, if we were asked that question we could not answer it satisfactorily with reference scarcely to any single thing that is proposed. I dare say that the men who have come to this body as delegates are men charged with some responsibility, and compelled in the performance of their duties to exercise some slight degree of judgment, and are not altogether merely messenger boys.

We have no specific mandate for every section or proposal that we consider and that we vote upon. I have heard no demand from any class or set of men from any part of the State that we should incorporate these particular words, but because there is no such demand does not foreclose by intelligent and patriotic men some things which the experience of a half a century in a State which has grown almost beyond comparison may justify or which they may believe are necessary.

Do we not elect the chief magistrate of the State by the electorate of the whole State? And is the Governor of Illinois, whosoever he may be, in the years to come, is he not a man who can be vested under this section with a little discretion? Surely it will be a sorry day for the great State of Illinois if the Governor of Illinois shall be denied some responsibility and some discretion in the discharge of his high duties in order that law may be enforced and in order that life and property endangered, if you will, not only by public disaster but by public disorder, shall be protected.

Shall the Governor of Illinois be denied the right in a crisis to preserve the authority of the law, and peace and order within the borders of Illinois?

I am frank to say that I have very little sympathy, from whatever class a man may come, for him who evades the enforcement of the law. Illinois will not be worthy of her high positions of the past unless the intelligent and patriotic men of Illinois shall say to the future, "The law shall be enforced, and this is a State where the law prevails, and where no man or set of men shall be favored or shall be exempt from the due administration of the law."

What can a man say whose respect for the administration of the law is to say that the Governor ought not to have the right in a crisis to protect life and property? What is the theory of the executive power under our Constitution? The Governor has no authority except that which is given expressly, and that which is necessarily implied to carry out those expressed powers. We have had that away back in the case of *Fields v. People*, in the 3d volume of the Supreme Court Reports, unless there is the authority expressly given.

There have been instances in this State, in our recent past, where the Governor was denied, or where at least the power to protect life, if you will, endangered, clearly endangered, and property also, where the power of the Governor to call out the militia in a case where every man agreed it was necessary was denied, and where the expenditure of public money was questioned.

Are we going to say to the present and the future Governors of Illinois that this question can be raised again? Now is the time, gentlemen of the assembly, to pass something in the way of discretion, leaving the power to him to perform his duties and perform them for the peace and prosperity of all people in the State, without class distinction, or demand from any quarter.

I believe the section should be reconsidered, and the words "endangered by public disaster" should be stricken out.

Mr. MICHAELSON (Cook). Regarding the executive action in this State, I just desire to call the last speaker's attention to two incidents very recently, regarding the calling out of the militia. The first one was in East St. Louis, taking about four days to get the militia to East St. Louis to pro-

tect life and property. Another incident, where it took about four hours to get the militia to the City of Chicago to suppress a meeting called in a peaceable way by citizens.

Mr. DEYOUNG (Cook). May I ask the gentleman from Cook what light that throws upon this question?

Mr. MICHAELSON (Cook). You talk about executive action and leaving this to the discretion of the executive, that is where the danger comes in.

Mr. DEYOUNG (Cook). Wasn't it necessary to call out the militia in the case of East St. Louis?

Mr. MICHAELSON (Cook). Was it necessary?

Mr. DEYOUNG (Cook). Was it wise or unwise?

Mr. MICHAELSON (Cook). You just read the accounts of what happened down there.

Mr. DEYOUNG (Cook). Well, if the gentleman declines to answer, that ends it.

Mr. MICHAELSON (Cook). That is all on that question.

Mr. MILLER (Cook). As I stated the other day, I am on this committee, and so far as I know, the only reasons urged to protect life or property were those mentioned the other day, in case of public disaster, but to put the limiting words in here which were suggested and voted in the other day it seems to me is pretty dangerous and it would be much better to leave out entirely the words "protect life or property," and take that power away from the Governor to protect life or property, than to put in the words voted in, for that reason.

The present section reads "may call out the same to execute the law, to suppress insurrection and repel invasion."

Now of course when the Governor, by means of the militia, is executing the law suppressing insurrection or repelling invasion, he is protecting life and property, and if we insert in there this limitation upon his right to protect life and property, necessarily it raises equally the serious question as to what circumstances must exist before the executive of this State can protect life and property, and to me that seems to be a most unworthy and humiliating thing for this Convention to indulge in.

Mr. SNEED (Williamson). In raising objections at the last session of this Convention relative to this committee's report, I did not have in mind that my position relative to that report would be an indictment against the people whom I try to represent.

I take it for granted the men assembled here as delegates to this Convention are men who are chosen by their respective people because of their intelligence and good judgment, known as responsible and lawabiding citizens and good American patriots.

I feel that I, as a representative of my district, have a right to object at any time to any amendment that may be proposed in this Convention which affects the people of the State of Illinois.

As I said before, I do not specifically represent any particular class or organization in this Convention, other than the people of the State, and particularly the people of my district. I trust there are not those in this Convention that would even have the faintest audacity for a moment to question a delegate when he arises to say aught relative to his sincerity or honesty on any proposition or amendment that may come before this Convention.

My objection to that amendment was because oft-times even the executive officials of a state or nation are liable to be influenced by certain influences brought to bear upon them. I would rather think, as one delegate in this Convention said, it would be far better to have the old Constitution as it read than to have this amendment as proposed by this Executive Committee, and I say that with all honesty and with due respect to this committee.

I feel, gentlemen, that this Constitution as changed, should be so short and be beyond a doubt or question so strong in its reading and in its amendments that there will be wiped out the last possible chance for error by

mistakes or misinterpretations by the executive, or legislature as well. I believe that this Constitution should be so flexible that the legislature and General Assembly may at any time invoke laws that the sentiment of the people may demand.

I do not stand here in this Convention, and I want to disabuse the minds, if there are any such in this Convention, of those that think I do stand here representing any particular class or organization. I am a citizen of the State of Illinois. It is true I belong to one of the greatest organizations, labor unions in this country or any other country, and of that I am not ashamed. The record of that association is of the best, and as good as far as patriotism and law and order are concerned, as any other organization, be it what it may, in the State of Illinois. We do not ask now, or have we at any time nor will we ever ask for a law which will permit certain individuals of ours or any other organization to violate the law. No, no, a thousand times no, I do not have that in mind and I did not when I raised that objection.

I had in mind protecting the people as a whole, because it is the people of this great State of Illinois, if you please, whose interests are involved in the Constitution. I haven't any sympathy with any class or with any organization who would seek by innuendo or by any other means to have written into this Constitution such a law as would permit them as a class or organization to have things or to be judged by the law different from the rest of the people of this great State of ours.

I say to you that the objection raised by myself and others who opposed this amendment was an honest objection, because we felt to write that into the Constitution would possibly make permissible the doing of something that the people as taxpayers of the State of Illinois, and the people as a whole, would revolt against in due time.

Mr. DIETZ (Rock Island). It seems quite plain that a number of the delegates to this Convention, and I believe the people of the State of Illinois, prefer to have the section as it stands now in the present Constitution. I felt that way as a member of that committee, and I feel that way now, therefore it might be important to consider the purpose of reconsidering this section. If the purpose be to sustain the report of the committee, it might be that a majority of the delegates to this Convention would not approve of it. If it be for the purpose of substituting the same as it stands in the present Constitution, I think they would be in favor of it.

It would be my purpose if this be reconsidered to offer as a substitute for the section as amended the section as it now stands in the present Constitution, and I think therefore in order to afford this Convention the opportunity of voting, I think the motion to reconsider ought to carry.

(Motion prevailed.)

Mr. DUPUY (Cook). I move we amend section 14 by striking out the words "endangered by public disaster."

(Motion prevailed.)

CHAIRMAN TRAUTMANN. The section will then read as printed.

Mr. GORMAN (Cook). I move as an amendment to the amendment that the words "protect life and property" be stricken out.

(Motion lost.)

Mr. JARMAN (Schuyler). I offer as a substitute to section 14 the section that is now in the present Constitution.

Mr. MILLER (Cook). The substance of that same motion has already been passed, and now the motion is to strike these words out with reference to protecting life or property.

CHAIRMAN TRAUTMANN. The Chair rules that the point of order is not well taken.

The question is on the motion to substitute the present section 14, article 5 of the Constitution for section 14 as appearing in the printed proposal. Are you ready for the question?

(Motion lost.)

CHAIRMAN TRAUTMANN. It has been duly moved and seconded that section 14 as amended be adopted.

(Motion prevailed.)

Mr. WHITMAN (Boone). Mr. Chairman, the——

CHAIRMAN TRAUTMANN. The question now reverts to the motion of the gentleman from Cook, Mr. Traeger, that article 5 as amended be adopted.

(Motion prevailed.)

Mr. WHITMAN (Boone). Mr. Chairman, I arose to introduce the amendment to section 29.

AMENDMENT No. 18.

Amend section 29 by striking out in lines 2 and 3 the words "for the conduct of the fiscal affairs and," and insert the word "of" before accounts in line 3, and change the word of after accounts to "for."

Section 29 would then read, "The Auditor of Public Accounts in addition to his duties prescribed by law shall be required to establish a uniform system of accounts for all county, town and school officers, and to supervise such system and to audit the account of such officers."

Mr. WHITMAN (Boone). Just a word in relation to this amendment. It is not desired, and it does not in any way change the idea of the committee which reported this proposition, or the Committee of the Whole, that there should be a system of audit for all accounts. You will recognize, however, that in the down State counties the conduct of the fiscal affairs of the county is in the hands of the boards of supervisors. This would seek to limit or to conflict with the rights and privileges, legal privileges of the boards of supervisors in the different counties. Therefore it is the intention of this Committee of the Whole, or was the intention of the committee that reported this section, that such a state of affairs should exist, at least if it does not absolutely cover this point, it brings up a matter which is liable to cause a great deal of trouble in the interpretation, and it seems to me if those words "the conduct of the fiscal affairs" are left out, we will have the meat of this section just as we all desire it, and we will not run the risk of having a double interpretation on it which would interfere with the rights and privileges of the boards of supervisors of the down State counties.

Mr. MILLER (Cook). I rise to a point of order. Wasn't section 29 adopted by the committee?

Mr. WHITMAN (Boone). It was.

CHAIRMAN TRAUTMANN. The point of order is well taken. Does anybody move to reconsider section 29?

Mr. WHITMAN (Boone). I move that we reconsider section 29.

CHAIRMAN TRAUTMANN. Did you vote for the motion to adopt section 29 the other day?

Mr. WHITMAN (Boone). I did.

CHAIRMAN TRAUTMANN. Are you ready for the question of the gentleman from Boone to reconsider the vote by which section 29 was adopted?

(Motion prevailed.)

Mr. WHITMAN (Boone). I now offer the amendment, and will not further speak in regard to the motion, because I believe a mere statement of it will bring to the members of the assembly the ideas I have in mind.

Mr. TRAEGER (Cook). I would like to ask him a question?

Mr. WHITMAN (Boone). All right.

Mr. TRAEGER (Cook). By omitting the words "fiscal affairs" and accounts, do I understand that that will prohibit a final annual audit of the accounts by the Auditor of the State?

Mr. WHITMAN (Boone). Absolutely not. It does not interfere with it at all, but it interferes with the Auditor's trying to direct the board of supervisors as to fiscal affairs of the county and appropriations for certain purposes and salaries of certain officers in the counties.

Mr. TRAEGER (Cook). If I understand this right, I don't believe the Auditor has anything to do with the fixing of salaries or the regulation of appropriations in any county or township. A duplication of auditing will be of no value whatever. If we are going to give the power to the Auditor of the State to audit the accounts at the close of the fiscal year, we must either give that authority to the Auditor of the State or to some other body. It appears to me it is a useless attempt for us to try and vest that authority in the Auditor of the State and at the same time vest it in the board of supervisors of the respective townships. We are either going to have a system where someone is responsible or we are going to place something into the Constitution that when we are through and have completed it, and it should pass, there will be a question of authority between the supervisors of the respective townships and the Auditor of the State. I have no objection and probably no more interest than any other citizen, but the object of this section as I understood it was to avoid for all future time the question of you or I who made any audit retiring from that office with a question of doubt as to whether or not we faithfully performed our duties during our tenure of office. Therefore, when they put in section 29, I believed, and spoke for it at the time, that they had something that would place a responsibility in one place in this State by which all of us who may have public offices must abide.

Now I may be wrong in construing the amendment, but as I now see the amendment, I believe you are going to have a division of authority, and when we are all through, we have neither the authority of the State to finally annually audit the accounts, nor will the supervisors of the townships have final authority. You must place that authority somewhere, in my estimation, gentlemen, if we are going to be right with ourselves. If we are going to be fair with all the people in this great State, we must place it somewhere. It is not going to hurt me at some future time or hurt you at some future time, we have but one point in view in passing this, and that is to pass something, as I said before, placing a responsibility that can at no time be questioned, and something that will bring to the people of this State in their respective counties a satisfactory audit, so that they may feel that everything was done that could be done to protect the interests of the taxpayer, the same as the Auditor of the State does now to place confidence in the depositors in banks in this great State of ours.

I believe that this should be taken into consideration and well considered before we divide the authority, if I see it right. I hope the gentleman who moved the amendment sees that plainer than I do, and believes it is for the best interest of all the people.

Mr. WHITMAN (Boone). The gentleman from Cook is laboring under a misapprehension, as to this.

Mr. TRAEGER (Cook). Possibly I am.

Mr. WHITMAN (Boone). I have not taken out anything in regard to the accounts. It reads this way: "The Auditor of Public Accounts, in addition to his duties prescribed by law, shall be required to establish a uniform system for the conduct of accounts of all county, town and school officers, and to supervise said system and to audit the accounts of such officers." I simply took out the words "conduct of the fiscal affairs."

Mr. TRAEGER (Cook). I may not understand the conduct of fiscal affairs, and I would like to ask the delegate if he and I understand it the same way. Fiscal affairs, if I understand it, means annual audit, the final fiscal ending of the term, for that year.

Mr. WHITMAN (Boone). The gentleman is mistaken in regard to the duties of the board of supervisors in the down State counties. The board of supervisors has a right to make appropriations and to say how the money shall be used.

Mr. TRAEGER (Cook). Yes.

Mr. WHITMAN (Boone). Now, if the Auditor has a right to step in and interfere with their rights in that, he is doing something which should not be done. The audit is left exactly as it was before, and not touched,

but this amendment is directed against any power the Auditor might have to say to the board of supervisors, "You shall not pass an appropriation for bridges," and so and so, or an appropriation for another thing, so and so. That is the fiscal affairs of the county over which the board of supervisors should have full charge, but the audit of accounts is left in exactly the same wording as the original motion.

Mr. TRAEGER (Cook). I misunderstood that, but going along further, does the Auditor of the State, in your estimation, have anything to do with the appropriation of moneys in this section?

Mr. WHITMAN (Boone). Yes, he has.

Mr. TRAEGER (Cook). I do not see it that way.

Mr. WHITMAN (Boone). It says that he shall supervise the fiscal affairs.

Mr. TRAEGER (Cook). Supervise how? And in what manner the appropriations are made, not how large the bills shall be?

Mr. WHITMAN (Boone). The audit of the accounts should not take out of the hands of the supervisors whatever they may see fit to do in the appropriation of certain funds for certain purposes in the county. That is all.

Mr. TRAEGER (Cook). I do not think the Auditor has anything to do with the appropriation.

Mr. WHITMAN (Boone). I think he has, under the original section. I think he has.

CHAIRMAN TRAUTMANN. The question is upon the motion of the gentleman from Boone to amend section 29 by striking out in lines 2 and 3, after the word "system," "for the conduct of the fiscal affairs and."

(Motion prevailed.)

Mr. CUTTING (Cook). I move the adoption of the section as amended.

(Motion prevailed.)

CHAIRMAN TRAUTMANN. The question now is upon the motion offered by Mr. Traeger that article 5 be adopted.

(Motion prevailed.)

CHAIRMAN TRAUTMANN. The Clerk will read Proposal Number 370.

(Proposal read.)

Mr. CUTTING (Cook). This identical language came up for consideration on the motion to amend section 1. Now it is coming up in the shape of a separate matter to be voted upon as a separate proposition, independently of the Constitution as whole, and only to become operative in case the majority of the people of the State shall vote in its favor. I have been assured a good many times by delegates on this floor that it hadn't the ghost of a chance to be approved by the people. That may be true. I believe in the principle embodied in it, and I do not propose to make a speech for it, but I only ask that the people be allowed to vote upon it so that it may be determined whether or not it has a ghost of a chance.

I think it is a movement toward the short ballot. I believe the majority of my colleagues here do not so believe. It may be the people believe in it, and if so, let us give them a chance and an opportunity to express their opinion on reducing the number of elective officers in the State.

I therefore move this as a separate proposition.

CHAIRMAN TRAUTMANN. Any further remarks?

Mr. TAFF (Fulton). In looking over this, I have an amendment I desire to offer.

AMENDMENT No. 1.

Amend Proposal No. 370, by inserting in line 1 after the word "provide," the following words "after the expiration of the term of office of those then in office."

Mr. TAFF (Fulton). The object of that amendment is to eliminate an objection which might arise.

Mr. CUTTING (Cook). That is simply after the expiration of those in office?

Mr. TAFF (Fulton). Yes.

Mr. CUTTING (Cook). Is that all?

Mr. TAFF (Fulton). Yes. The reason for it is that the legislature might hold something as a club over those in office by threatening to enact such a law eliminating the officers, that have been elected by the people, and for that reason I have offered this amendment to protect those who might be in office at that time.

Mr. CUTTING (Cook). I accept the amendment.

(Whereupon the motion to amend was lost.)

CHAIRMAN TRAUTMANN. The question reverts to the motion of the gentleman from Cook that Proposal 370 be adopted.

(Whereupon the motion to adopt was lost.)

Mr. CUTTING (Cook). Well, I haven't the slightest idea but what this Convention is against it.

Mr. BARR (Will). I would like to ask whether or not, in view of the fact that Proposal 370 has been voted down, if in section 2 of Proposal 369, the words "or appointed" should not be stricken out. My reason for asking this question is this, that section 2 provides now, and section 3 provides for an election for Governor, Lieutenant Governor, Secretary of State, and so forth, but does not specifically provide that they shall be elected.

CHAIRMAN TRAUTMANN. Well, the object of that was this, in case there was a death or a vacancy in the office of State Treasurer, the Governor would appoint the successor and that man could not succeed himself, that was the reason for that language.

Mr. BARR (Will). Oh, I see.

CHAIRMAN TRAUTMANN. The next proposal is number 361, and I will ask Mr. Dunlap to take the chair.

(Chairman Dunlap, presiding.)

CHAIRMAN DUNLAP. The next thing in order before the Committee of the Whole is Proposal Number 361, recommended by the Committee on Agriculture, and the Secretary will read the proposal.

The Chair would like to discuss this question in opening the debate, and I will ask the delegate from Adams, Mr. Gray, to come forward and occupy the chair.

(Chairman Gray, presiding.)

CHAIRMAN GRAY. I will say to the Convention or to the committee, that owing to the absence of my glasses I will not be able to recognize faces very well, but I will recognize the delegates by the erection of a hand and in some way give you public recognition.

Mr. DUNLAP (Champaign). In attempting to explain or discuss this proposition, I desire to say that the object of the proposition is to correct a condition that exists, not only in the State of Illinois, but in several of the states of the middle west and the far east.

The object of this proposal is to provide some fund by which the land may be returned to the hands of the men who till the soil.

In order that we might have some idea of present conditions which possibly some have not studied, I am going to go into these conditions as I see them, for your information. A certain amount of tenantry on the land is desirable. The young man starting out has small means, and he must have some place that he can get a start upon the land if he is to become the owner of it in time. Those who have studied this subject say that when the amount of tenantry passes twenty-five or thirty per cent and reaches to over fifty per cent, that the tenantry proposition becomes a menace, not only to the soil, but to the people of the State.

Now, in 1880, the census disclosed that there were thirty-one per cent of the lands of Illinois that were tenant lands. In those early days prior to that time a tenant on the farms in the county in which I lived was a rarity, a tenant in the neighborhood was almost unknown. That condition prevailed for quite a number of years, and the reason was that the lands

were cheap. The lands were accessible to a man of very moderate means, and furthermore they had not become so profitable that they engaged the attention of those engaged in other mercantile or financial affairs, and it had not attracted any attention. In fact, some of you will remember perhaps in the early seventies, that when the men with banks all over the State who had mortgages on these farms, and individuals who had mortgages on these farms, thought it a disaster if they were obliged to foreclose those mortgages and take possession of the farms, so the ownership of a farm in those days was not what it is today.

Now the tenantry in Illinois has progressed so that in 1900 there was thirty-four per cent of the lands of Illinois that were tenant farms. In 1910 that had increased to forty-one per cent, but in the last decade the tenantry of lands in Illinois has increased on the average to sixty per cent, as estimated by our Legislative Reference Bureau, from data that they were able to find. But, from estimates made in several of the counties of the State by farm bureau organizations, it is found that seventy-five per cent, and as high as eighty per cent of the farms of the State are now occupied by tenants. Now, just what does that mean, gentlemen? That means this, a man who is a tenant farmer, especially one who is a farmer that expects to continue as such, has no hope of ownership, and that the average tenant farmer of occupied land is less productive than the man who operates it himself. Any of you can go through the country and you can discover on your own visits and can tell an occupied farm where it is occupied by the owner and one that is occupied by the tenant, you don't need any guide to direct you as to what farm is a tenant farm and what farm is run by the man who owns it, so that in itself is an indication that something is wrong.

Now, I want to call your attention briefly to conditions in some other states to show you what Illinois will come to, if she continues along that line.

Now, here in the State of New York, are some of the farm conditions of New York, and I am going to read very briefly, but I will be very glad if you will consider these statements in reference to this discussion.

"Another farmer in a stony section of Jefferson county writes: 'We have many new tenants around here this year. There have been ten auctions within four and one-half miles of where I live. There are other farmers that want to sell, and there is one farm still without a tenant. All of these farmers went to the city to get shorter hours and bigger pay. Eight young men from around here, ranging in age from 19 to 22, also have gone to the city. It is not possible for us to pay city wages, so you see what we are up against. We expect to raise what we want for ourselves, but I do not know how the other fellows are coming out. I am on a farm of 150 acres, with ten cows, and I expect to work it alone. You know it can not be done right.'

"A farmer of the Southern Tier writes from a hilly section in central Allegany county: 'Conditions are not encouraging. There are too many empty houses. Boys and girls are going to the cities. Tenants are quitting. Many large farms are for sale, but there are no buyers. There has been auction after auction to dispose of live stock and equipment, but only two farms have been sold in the past year.'

"A farmer in the hill section south of Ithaca writes: 'The tendency of the farmers in general is to reduce the crops requiring a large amount of labor, as potatoes, beans, grain, etc., and produce more corn, use milking machines, and do the work with as little hired help as possible. At no time in my experience of fifteen years of farming have I seen such a cut in labor or so many farms left for just the hay.' When farms are 'left just for the hay' they steadily and surely decline in productiveness. This kind of farming is merely one stage toward ultimate abandonment."

Now, that is the condition. In the State of Michigan it says here that there are 18,000 abandoned farms, and that 46,000 of the men who worked on those farms and operated those farms have moved to the city.

Now this means, gentlemen, that not only are the farmers interested in this question, but the cities are interested in this question. This is a matter of three meals a day, if we are going to eat we must have the food. Now, in considering this as a State proposition, I take the ground it is not a class proposition, for the reason it interests every citizen of this State. It is not particularly in favor of any class as a farmer, because it gives everybody an opportunity who wants to, to own a farm and cultivate it, to go on that farm and invest his money and raise his crops. Some have said this would be a species of Socialism, if we are to provide a fund, and that is what this is for, to provide a fund for the buying of land by the person who has small means and to give him a long time credit.

Now, the present conditions are if a man goes on to a farm, he can obtain a loan of fifty per cent of its value, providing it is not over \$125 an acre, but if it is over \$125 an acre, he cannot obtain a loan. Now, that is in the rich central prairie lands of Illinois, where they are worth \$400.00 an acre. How is the tenant farmer ever to become the owner of a farm? That is the question I want you gentlemen to ask yourselves today, how will they become the owners of farms unless a fund is provided by which they can obtain a long time loan? Now many farmers are prohibited from making this investment because they are afraid under the present conditions to borrow money on a five-year period, because it takes a man a long time to get started, in farming, especially, if he is a man of limited means.

Now, I know what this means, gentlemen. I have lived on a farm all my life. I know what it means to obtain credit on long time payments. When I bought the farm where I live today, I went into debt some \$20,000.00, and I had a municipal bond of \$1,500.00, and that was invested in equipment. I was a tenant farmer, and I know why it was made possible for me, because of the fact those who were interested in that farm and owned it, gave me an option on that farm to pay for it in just as long a period as I felt necessary, so I felt safe in making an investment when practically I had no means at hand to warrant me in obtaining credit to that amount. I know it took me twenty years to pay out on that farm. So I know what these men are up against, I know that if I had gone into the purchase of that land on a five-year proposition I never would have taken it. I probably would be a second-class lawyer somewhere, because I had in mind at that time to become a lawyer, but that opportunity opened up to me, an ordinary farmer at the present time, and that was made possible because of the fact that I could obtain credit to buy a farm.

Now, some people have called this matter of the State extending its credit and providing a fund Socialism. Now, Socialism, as I understand it, is the ownership of the land or the apportioning out of the land for the benefit of the people of the State, without anyone owning it in fee simple. Now, this is just the opposite of Socialism. This is to provide a condition whereby a man who wants to become the owner of a farm can, by a small initial payment, secure it on such long time and with such a small initial payment as to become the owner of it.

Now, that is what this proposition means. It is not Socialism.

On the other hand, some may say it is paternalism. Well, is that against paternalism? The State takes charge of quite a number of things, the State takes charge of our educational system. It shows the benefits to be derived by the State in educating the citizens of the State, as ample reason why the State should perform that function.

Mr. MILLER (Cook). Well, will this enable any second-class lawyer to become a first-class farmer?

Mr. DUNLAP (Champaign). I think it would. If this is paternalism, then we have paternalism in a number of lines. We have it in our schools as I say, and we have it in our railroads, controlled by our government, we do not have to go that far, when they tell you on which side of the street you have to drive. They will tell you you have to have your lights lit in a street, when you come to a road at night, and they will tell you what you have got to eat. In fact they will tell you almost anything, the State even

prohibits a man running off with another man's wife. This may be paternalism, but it is necessary in the government, for if the State can control matters of economy and other things, why not control the matter of farm loans? If it is important enough to have the land owned by the man who tills the soil, then it is important enough for this State to look after the emergency that exists at this time and not wait until it comes to a time when it would be almost impossible to overcome the former conditions.

Mr. HULL (Cook). I have listened with interest to your speech, but it all assumes legislation enacted under the provisions of this proposal would result in returning lands to farmers who would live on that land on which they worked, and would decrease the number of tenant farmers. I think what we would be interested in knowing is whether or not it will result in any such thing. We heard the gentlemen speaking before the Committee on the Whole on the subject of revenue, and Mr. Mann suggested that the Federal Farm Loan System had not resulted in an increase in the number of farmers who owned their own property. It had not cheapened the land for the purchaser, it had resulted rather in additional funds seeking investment in land and raising the prices of farm property accordingly.

I think you have assumed your whole argument here on that proposition, and I would be interested in some expression as to whether any legislation enacted under this proposal would accomplish the result you are speaking of.

Mr. DUNLAP (Champaign). The Federal Loan Act provides that a man can obtain money up to fifty per cent of the valuation on a long time payment. So far as that goes, it has been beneficial to the man who owns land to expand his farm. It has made it possible for men to enlarge their farms by buying the farms of those around them, but so far as I know it has had but little effect in providing the man of moderate means with an opportunity to become a land owner. Now, as far as the Joint Stock Farm Loan Bank is concerned, which is a child of the Federal Reserve Bank, the Joint Stock Farm Loan Bank issues funds and takes mortgages upon farms. They are not restricted at all, that this man shall be the owner of his farm, that he shall keep the land or till the soil, not at all, he can be a merchant in the city and he can be a lawyer in good standing and good financial backing, and he can secure the funds necessary to buy the farm. But, so far as really solving the question of farm ownership by the man of moderate means, it is a failure.

In fact, the Joint Stock Farm Loan Bank, which is allowed to issue its bonds and loan them for the purpose of purchasing farms, has acted just exactly the opposite from that which it ought to act, because it encourages speculation in land, and that is the last thing the State ought to encourage, land speculation. The land ought to be owned by the man who lives upon it. In every man's heart, every man that is raised on the farm or even in the city, there is the desire to own his home or farm, and that is a thing we ought to cultivate. Even in the last Republican Convention, up here, there was a resolution passed, or a plank adopted, which stated that the farmer is the bulwark of the nation. The farmer is the bulwark of the nation, provided he is the owner of his farm, but I want to tell you gentlemen that the man who is a tenant on a farm with an inadequate house to house his family and in some instances it is almost a shame to put livestock in the houses on our tenant farms, in such instances you cannot expect the man to be the bulwark of the nation, if he is that kind of a farmer.

The farmer to be the bulwark of the nation must be the owner of the farm and must have a home of his own.

Mr. MILLER (Cook). I am in full sympathy with the purpose of this bill, but wouldn't this increase the market for each farm, that is to say, increase the number of customers the land owner would have for his land?

Mr. DUNLAP (Champaign). It might and it might not, but it will do this, it will put the man who could obtain this fund upon equality with the land speculator, at least, and he will be able to compete with him in the purchase of the farm. I know a lot of land owners who own farms and they

are not all bad landlords by any means. There is twenty per cent of them, perhaps, that are the right kind of landlords. Such landlords as that, if they want to sell the land, would sell it to their good tenant, if he is a good man they will sell it to him, if he has any way of financing it at all, and they would not put it in the hands of some real estate agent to sell to them to the first man who comes along, as they are obliged to do now, they would have the man right on the farm and they would put it in his hands, because the security would be a good one. When you have a farm on a long time loan with a small initial payment, you must recognize the fact every year he pays the interest on that loan and pays a small amount of the principal, so in a few years he has a greater equity in the land, and the security is getting better every year, and it is the only system on which land ought to be sold to a man who wants to farm it.

Mr. MILLER (Cook). Don't you think the purpose of this measure would be furthered if you also provided a limitation on the amount of land any man could own, say five hundred acres or four hundred acres of farm land?

Mr. DUNLAP (Champaign). That is one of the suggested remedies for this condition. I do not believe that there is a delegate in this Convention who has studied this question but what will acknowledge the seriousness of the present condition and that there ought to be some relief. Now, what shall that relief be? Shall it be this proposition, which I regard as a conservative one, or shall it be one which we will put in the Constitution that the men shall not own over four hundred acres of land; if he does have over four hundred acres of land, then he shall put it on the market and sell it; or shall we enact a law to provide that if he has over four hundred acres of land, he will be surtaxed, a surtax will be put on it and in that way we will discourage ownership, or shall we provide if he has over a certain amount of land the State shall go in and sell it to some others to become the owners and operators thereof?

I am not in favor of those sources of advice. I believe that would be a species of Socialism. What I would like to see is this, a prevention of the trend of the young men farmers of the State of Illinois to the cities. The young man on the tenant farm when his father says to him, "John, I need your labor here to operate this farm," he says, "Father, what is the use? You never can become the owner of this farm, we are just putting our labor in, going along here working for the landlord every year, and I am getting mighty little out of it here, why shouldn't I go to the city where I can get big wages and an easy time and shorter hours?" But, if the tenant farmer could say, "My son, the State has provided a fund, and even with our small means we can make a small initial payment and we will become the owner of it," don't you think the young man would stay on the farm and operate it in the interest of his family? Certainly he would. So we do away with that.

We cannot help but acknowledge but that the trend is towards the city. Take the census now being taken. Take the census of Richland county down here in Illinois; it was twelve per cent less than it was ten years ago, and the man who was taking the census in that district says there is not but one county in the district which will show an increase in population. Up in Grundy county, which is near Chicago, the decrease in population is eight per cent in the last ten years. What do you think our agriculture is coming to, gentlemen? In our own neighborhood, with these conditions, the wives of some farmers are operating tractors there in order to cultivate the land. I know one man whose wife has operated a tractor for him for a month in plowing new lands and cultivating it for this spring. I know another man near me in my own neighborhood who worked his tract for forty hours without rest, in order that he might get his crops in, and this is because of the trend towards the city. If you cannot induce the rich lands of central Illinois to keep these men on the farm, what will we do? This land is being put into grass, it is producing lands, what are we going to do about the increase in prices? If you talk about the high cost of living

in the city, why you are going to get the high cost of living more and more, because if this thing persists along the lines it is going now without any relief, the young men of the farms will all be in the city, and a good many of the tenants will go there too.

Mr. TRAUTMANN (St. Clair). May I ask the Senator a question?

Mr. DUNLAP (Champaign). Certainly.

Mr. TRAUTMANN (St. Clair). How do you hope to accomplish by this proposal the prevention of the young man from leaving the farm?

Mr. DUNLAP (Champaign). I hope to prevent them from leaving the farms by giving them a little hope of ultimately becoming the owners of the farms through long-time loans, with small initial payments of perhaps twenty-five per cent on the farms. Then they can have thirty years, if necessary, in which to pay for them, and they will pay the interest with a small payment of the principal, with each payment, the same as you would with a building and loan association, and ultimately they become the owners of the farms.

Mr. GALE (Knox). May I ask a question?

Mr. DUNLAP (Champaign). Yes.

Mr. GALE (Knox). Would it be your idea under the section that the State itself would be the landlord? Or rather the loaner of the fund, I suppose it would?

Mr. DUNLAP (Champaign). My idea of that is this, Mr. Gale, under this proposal as it is now before us it would be possible for two things at least to be done; one would be for the State to authorize the organization of land associations for this purpose, to give them the right to issue bonds to provide capital, if it could not be had otherwise, and to scrutinize mortgages under which this money was loaned, and perhaps take some into its care and custody, so that the bond owners would be guaranteed in that way, payment for their bonds, when they become due. In this way it could perhaps be accomplished without the State extending any of its credit whatsoever.

If that failed, if that does not accomplish the thing we wish to do, then we wish to leave the way open so that the legislature might provide for an issue of bonds to direct loans by the State, as is now being done in some other states of the Union. Personally I prefer the first, I would like to see that worked out; then if that fails, then the way is open to go further.

Mr. GALE (Knox). Couldn't the legislature authorize that under the Constitution as it now stands?

Mr. DUNLAP (Champaign). No, I think not.

Mr. GALE (Knox). You think they could not authorize land associations on the line of the present city building and loan associations?

Mr. DUNLAP (Champaign). On the line of the present city building and loan association perhaps, but that provides that this fund must be paid in by the men who are interested in the association, and that is not possible except in a small way. Now, you can operate that for housing conditions, you can provide a home for the man who wants to get a home under that method, and the legislature has authorized a corporation to be established to own the land for the purpose of erecting homes and then selling them on long time payments to the man who wishes to become the owner of that home. That has been provided for, and I think takes care of the situation very well.

But, when it comes to the ownership of the land, it requires a larger fund and a larger organization; for that reason the State must provide some way in which this question can be taken care of adequately.

Mr. GALE (Knox). If the State were to go into this business itself, there is no limitation here as to the percentage of the cost of the land that they might own. Do you think it is wise to leave that entirely open?

Mr. DUNLAP (Champaign). I thought it wise to do that, or the committee did, for the reason they thought that was a legislative matter, perhaps, and that ought to be provided by the legislature when they had

canvassed this thing thoroughly and gone into it, and we wished to put as little legislative matter into this as possible.

Mr. GALE (Knox). Here is what I want to get at along that line, really, Senator, if this thing were to do any good along this line, wouldn't it have to loan a larger percentage of the value of the lands than private persons or the present banks would do?

Mr. DUNLAP (Champaign). Certainly.

Mr. GALE (Knox). If it were to loan more than they would loan, and consider it safe, would it be a safe proposition for the State?

Mr. DUNLAP (Champaign). Yes, I think it would be entirely safe, the best security we have in the world, in the State of Illinois today, I think outside of Government Bonds, is a farm mortgage. Now, the Federal Banks very wisely in my estimation have limited the amount of money that they can loan on purchases of this character to fifty per cent of its value. Now, there are many projects over this United States that are new, untried. They go into many places which have never been opened for agricultural purposes. The whole thing is problematical as to what the outcome will be. The prices are unstable and largely of a speculative character, in certain instances; but in the State of Illinois it is ascertainable as to what the land will produce in any county in this State, as to production, so that the loans made on that land will be paid. In other words, there is nothing speculative about the land of Illinois. You can go into any community and find out the real value of those lands from the producing standpoint. So I say there is not the slightest danger of any calamity of that kind in loans that might be made, that the State will lose any money, even if the State went into that business.

Now, South Dakota has something like \$25,000,000 loaned out as a state proposition on the lands of South Dakota, and yet they have not lost anything.

And the State of California is doing business along the same lines. They are going further than we propose to go. We are not proposing to buy any land, we are not proposing to go into the reclamation business, because in Illinois it is not necessary.

Here is the whole problem as I view it, to continue tenantry in the State of Illinois, if it is something that we want, let us go ahead as we are doing now, but if we want to get the lands back into the hands of the men who actually operate the farms, then we will have to adopt some different policy. No loan company has undertaken to loan money for less than half the land's value. The State will be entirely justified, or any corporation established by the State would be justified in making these loans on a long-time basis, with a small initial payment as low as twenty-five per cent.

Mr. GALE (Knox). That would be a loan of seventy-five per cent?

Mr. DUNLAP (Champaign). Yes.

Mr. GALE (Knox). Is that as large a loan as you think should be made, Mr. Dunlap?

Mr. DUNLAP (Champaign). Yes.

Mr. GALE (Knox). Isn't it true, Senator, to a man who has really demonstrated that he is a good tenant farmer, in almost any farming community, the securing of seventy-five per cent of the value of the farm is a comparatively easy matter? It can certainly be done now down in our county.

Mr. DUNLAP (Champaign). I doubt it very much. The companies are not loaning it. If they do, they loan it for a five year loan. You take a man who is going to invest his money in a five-year mortgage proposition, to buy a farm and all he has now is enough money to make the initial payment of twenty-five per cent—I talked with the farmers about that, and they say, "We don't know what the conditions will be in five years; we don't know what is going to happen. Suppose there happens to be a stringency in the money market, we cannot get our loans renewed in five years, and we can hardly get started, we have to buy livestock to equip the farm, and we have to buy machinery; we hardly will get going in five years, when our mortgage

is due. If the mortgage man comes in and closes our mortgages because he wants the money, we are out everything we put in it." There, gentlemen, is their reason, that is the very reason the farmers won't buy any high-priced land in Illinois, because they won't take the risk, except the man who has the means to pay fifty per cent.

Mr. BRANDON (Kane). How many of such foreclosures as you have stated do you know of personally in your life?

Mr. DUNLAP (Champaign). Not very many lately, but I do know it is because the price of land has been advancing all of the time in central Illinois, and a man could sell his farm and he would not need to wait for the foreclosure, but he could sell it. Suppose the price ran down, he could not sell it, and he would lose all he had. Away back in the seventies, I know of dozens, scores and hundreds of lands foreclosed. The mortgage was foreclosed and the man lost every dollar he put into it. It is because the people are afraid to take advantage of the high price in lands, and take chances of losing everything that they refuse to go into it in the present conditions.

Mr. GORMAN (Cook). Do you believe, Senator, the institution of such a scheme would have a tendency to withdraw large numbers of people from the cities to rural communities where they would become useful producers?

Mr. DUNLAP (Champaign). I doubt very much whether it would bring those out, except perhaps some men who had gone there from the farms. I do know in the cities there are men sending their sons out to the farms to study agriculture and to the University of Illinois to study agriculture, but mostly those men are able to buy a farm if they want to. I know several of them that have gone to the University——

Mr. GORMAN (Cook). Well, it would induce those on the farms to remain on the farms?

Mr. DUNLAP (Champaign). Yes, it would induce those on the farm to remain on the farm.

Mr. GORMAN (Cook). That being true, there would not be any danger of Chicago or Cook county ever having a preponderance of the population, and therefore I ask you if you are willing to have the adoption of this proposition as a substitute for the limitation of representation of Cook county in the General Assembly?

Mr. DUNLAP (Champaign). I would be willing to consider that.

I want to give you an illustration of what the tenant farmer is up against when he undertakes to be a skillful tenant, and improve the farm, that his landlord is having him operate for him. I know two instances of that kind just north of my home place. Well, the man is paying one-half the crop, and he hauls all of the grain to the market, furnishes his own seed, and pays the landlord \$1,000 on that 300-acre farm, in addition to his one-half of the crop and these other propositions.

I have another farmer on the east of me, a tenant who has been operating that farm for fifteen years, he came there as a young man and he is now about forty years of age, he started a dairy herd and he has improved that herd and all of the fertilizer and barnyard manure scattered on that place, and he made the farm productive. He brought that from the outside and used it to increase the products on the farm, and he told me this spring, "What do I get out of it, I get an increase in rent every year or two, and now they come to me and say I have to pay them in addition to one-half the crop, a bonus besides." He said, "I am going to Canada or some other place than here and buy a farm of my own." I said, "What would you do if you had an opportunity to buy a farm here in Champaign county, and own a farm with a small initial payment that you could stand?" and he said, "I would stay here, because there is no other country as good as Illinois." So it is in Illinois. If you read the papers, last spring you noticed the emigration of 180 families from the counties of McLean and Livingston into Canada. These men were leaving because they thought they could improve their land, and they had to go where land was cheap, because their invest-

ment was small. We might as well keep those men in Illinois, because these men had to go some place, they are industrious and they have energy and are good farmers. Let us encourage the young men to stay on the farms by giving them an opportunity to become the owners of the farms which they till. Let us provide these means for them to invest and stay here.

Now, these farm organizations over the State, I might say, are efficient. The farm bureau organizations in many counties in this State, in perhaps as many as seventy-five counties, have been organized, and the farm bureaus are therefore encouragement of agricultural pursuits, and to enable them to raise better crops. They are there to secure better market conditions for the farmer, and they are conducting educational campaigns with these men about limestone and rock phosphate on the soil and the subject of building up the fertility of the land.

The present condition is when you have sixty per cent of the men tenants, the result is that the tenants are educated here in Illinois by the superintendents from the bureaus, and they go to other states and become their best citizens there. Why not keep them in Illinois? The farm bureau organization endorses this proposition and they think it ought to be for the best interests of agriculture in Illinois. When you talk about fundamentals, we are here to talk about fundamentals in our Constitution, and if there is anything more fundamental in our Constitution than agriculture, I would like to know what it is. It is at the base of government. Rome destroyed its government because it neglected its agriculture. Rome undertook to farm its lands by slaves captured in the wars, and put managers on their farms as superintendents, thus reducing the production of its lands, and sent the young men and the farmers' sons to the cities where they could earn bigger wages, just as we are doing here. Now you know Goldsmith said, if I can quote it correctly,

"Ill fares the land to hastening ills a prey,
Where wealth accumulates and men decay.
Princes and lords may flourish or may fade,
A breath can make them as a breath has made,
But a bold peasantry their country's pride,
When once destroyed can never be supplied."

I will have to apologize to Goldsmith for quoting it so poorly, but it is the sentiment behind the movement for better farm conditions.

I seriously hope in considering this matter you will take into consideration this fact, that if we are to have the farms of Illinois owned by the people who till them and get back to the farms, we have to do something, and if you have anything better to suggest than this proposition we would be pleased to have your suggestions.

Mr. MILLER (Cook). Do you know of any place where this remedy for this evil, which is admitted to be an evil, has been attempted and has worked?

Mr. DUNLAP (Champaign). Yes, in the little country of Denmark in 1894 its lands were owned by about 175 people, and recognizing the fact that something must be done to improve its agriculture, they established this farm loan system, and they loaned this money from the state to the individual farmers. They even go so far that they loan to the man who is working on the farm, if his character is such as to warrant that loan. Now they loan as low as on farms of two and a half acres in size. The average size of sixty per cent of the farms in Denmark is less than sixty acres each, and I was going on further to say that they have a cooperative marketing association there to market their products in England and the United States and other countries, and they have obtained such a quality that I notice a quotation in one of the trade papers not long ago that the butter from Denmark was the best butter in New York City.

Now, these men have become the owners of their farms, and from 175 men owning all the farms in Denmark, ninety per cent of the farmers today in Denmark are farm owners. It is the most productive country in the world and the most intensive farming.

That leads me to say this, we don't want the big farms, we want to get back to smaller farms, in order to give a man an opportunity to farm his own farm with his own family, that has been what he has been obliged to do in the past few years, practically obliged to farm his land with his own family. If you can give that man an opportunity to own that farm, you will increase the productivity of that farm and increase its fertility, and every piece of land will be up to the highest grade of productivity. You will increase the people's food products and at less prices than they are giving for them today. If we go on with these alternatives, you must pay five dollars a day for an eight hour day on a farm, and if you do that you must pay that in the cost of the product to the man who lives in the city.

Mr. MILLER (Cook). Were there no other steps taken in Denmark to get the land than the loaning of money?

Mr. DUNLAP (Champaign). Well, the country over there is a kingdom and they took the land.

Mr. MILLER (Cook). Do you know whether also that kind of a thing was done in Goldsmith's country?

Mr. DUNLAP (Champaign). No, sir; I don't, but every piece of land in England has come almost up to the present time in the ownership of barons and lords.

Mr. MILLER (Cook). Isn't it true in England up to almost twelve years ago the same process has been going on and on as is going on now here until a great part of the land in England was abandoned and she was sending across the channel to Denmark tens of millions of dollars, and didn't the government about ten years ago start the discouragement of large holdings and hasn't it resulted in the breaking up of large estates?

Mr. DUNLAP (Champaign). Naturally it would. It is a question whether you want to proceed along that line or proceed along the line of giving the men an opportunity to purchase the farm.

Mr. MILLER (Cook). The thing I am asking is, do you know whether there is any such place where a measure such as this is claimed to be of loaning money only has reached the end you and I should like to see obtain?

Mr. DUNLAP (Champaign). Yes, in South Dakota, men who have gone there are becoming owners of land. I have letters here from South Dakota, a dozen or more, and I have letters here from bankers also, commending that as one of the wisest things ever done in that state.

Mr. MILLER (Cook). When was that passed?

Mr. DUNLAP (Champaign). Passed something like four years ago, and in operation about three years. Loaned something like twenty-five millions of dollars in that time. Not only would the effect of this be good so far as the state is concerned, but it has a good effect on the money loaned by other associations in the state. It has induced the loaning companies of the east to come into Dakota and modify their loans and put them on a long term basis, the same as the state was doing, in order to compete with it. So that if the thing works out, as it undoubtedly will, it will provide a great many more millions of dollars than the state would furnish, by providing competition.

Mr. MILLER (Cook). Have you any statement by any official in charge of that department of South Dakota as a government, showing the actual results?

Mr. DUNLAP (Champaign). Yes, I have; I have here a statement from the Governor of South Dakota, and I have a statement here from one of the banks, the Richfield National Bank of Richfield, South Dakota, and a number of letters from other bankers, endorsing the Farm Loan Act, as it prevails in South Dakota, as being the most wise and constructive measure that the state has ever enacted into law. It has worked to the great advantage of the agriculture of the state and to the state at large as it provides a means of development heretofore unknown. All of these bankers referred to commended it in the highest terms. I have also letters from numerous professional and business men of South Dakota speaking in the same high terms of their Farm Loan Act. This act is an act loaning money to the

farmers of the state on long-time terms, with a small initial payment, and at a considerably lower rate of interest than prevailed in the state before its enactment.

Here is another one from another part of South Dakota. They loan as high as \$10,000 on a quarter. I believe at six per cent, I believe the rate is six per cent this year, and last year it was five per cent.

Mr. MILLER (Cook). The point I was trying to find out was not if the farmers had enjoyed this system, but whether it had resulted in the increase in the number of land owners or the decrease in the average land holdings or the increase in the number of actual owner farmers instead of tenant farmers?

Mr. DUNLAP (Champaign). The operation of the South Dakota proposition has not been in operation long enough to determine that, but in Denmark that is true.

Mr. MILLER (Cook). But that is a different thing, that is not any parallel with this, that is the very pressure I suggested, the pressure from above, so it doesn't merely result in keener competition for land, but merely in the raising of the price.

Mr. DUNLAP (Champaign). I think our judgment would tell us if a man could obtain a loan on a thirty-year basis, with a smaller initial payment, it would encourage him to become a farm owner.

Mr. MILLER (Cook). Yet Denmark did not see fit to do that without breaking up the farms.

Mr. DUNLAP (Champaign). That is a kingdom over there, and they do things over there arbitrarily, I do not know whether we would stand for that thing in a republican form of government.

Mr. MILLER (Cook). Are you willing to try it?

Mr. DUNLAP (Champaign). I don't know that I am. I haven't any personal objection to it, but I doubt very much whether that is not a socialistic feature. The government which undertakes arbitrarily to perform acts which become bad by natural processes will not succeed, and I believe if you provide the right conditions to bring about what ought to be gotten in this country, you can do it.

Mr. MILLER (Cook). But you haven't any examples that you can cite anywhere else?

Mr. DUNLAP (Champaign). No, this is a comparatively new proposition.

Mr. MILLER (Cook). There is nothing new under the sun.

Mr. DUNLAP (Champaign). If you want to go to Australia or New Zealand you can find it has operated there since 1895, if I remember rightly, and they have loaned a good many million dollars under this proposition.

Mr. MILLER (Cook). Has it resulted in increasing the number of persons who own farms?

Mr. DUNLAP (Champaign). I cannot answer that question.

Mr. BARR (Will). Has it broken down in New Zealand?

Mr. DUNLAP (Champaign). They are continuing the proposition. I want to say one thing further, then I am going to leave the floor, I do not want to take up too much of your time. This matter of the ownership of the land, whether it will go into the hands of men who will really operate the farms or not, that I think is the substance of Mr. Miller's question. Now, in my opinion, there is not any doubt but what the result will be exactly along that line. Now that is illustrated a good deal by what Governor Allen said here when he spoke about France. He spoke about one day in France when he was talking to the general in command of a certain sector there, and he said, "You have asked me why it is that France was able to make the fight it made for France." He said, "The answer is in these 164 men that you see here before you, 162 of those men live in homes that their grandfathers owned. They are land owners." He said that if they did not own the farms and homes that they fought for, why they would not have fought for the landlord like they are fighting for their own homes.

Another illustration of that might be in that of a cat owned by one of the neighbors, and a fox terrier dog that we had. Whenever that cat came onto the premises and that dog after her, if she did not have any family she would turn and put her tail between her legs and fly across the road, but when the cat had kittens, it was the dog that would put his tail between his legs and fly across the road. So that will show you that a man will die for his home and fight for his family, and so he will in this matter of agriculture, because I want to tell you, gentlemen who have never lived on a farm, that the growing of crops is a fight from beginning to end for the farmer, and he has to fight violently and if he is the owner of that farm, then he has something to fight for, the ownership, but you take away the hope of ownership and you have defeated his ambitions. I will not say anything further at this time.

Mr. WHITMAN (Boone). I am aware the day is hot and this committee is in no mood to listen to long speeches, and for that reason I have endeavored to condense and boil down what I have to say about this question. If you will kindly give me your attention for ten, and at any rate not to exceed fifteen minutes, I will be through. In order that you may keep the thread of what I have to say, if you will allow me to make my talk for that time without interruption, I will at the end answer any questions you may ask me if I am able to do so.

I was born and brought up on a farm. As soon as I could persuade anyone to sell me one, mostly on credit, I bought a farm, and have never been without one since. Theoretically and practically I have had experience in farming. I know that a country like ours lives and is great only in proportion as its agricultural interests thrive. Napoleon said that an army fought on its stomach. This is just as true of peaceful pursuits as of warlike ones.

I am fully aware of the great influx of country people into the cities, and the great dearth of laborers on the farms. It is a source of alarm when a great state like Michigan, if we are to believe the newspaper reports, has twelve thousand tillable farms lying idle this year from lack of help. I am in full accord with the remarks that have been made concerning the great peril that is hanging over us unless we can raise more foodstuffs. Prices of necessities cannot fall while production is lessened and more people are to be fed.

While all this is true, it becomes us seriously to consider the proper remedy. Everybody knows that when a physician has diagnosed his case he has by no means performed the most important part of his professional duty. He must find and apply the proper remedy. If he makes use of a wrong remedy he will simply aggravate the disease and retard recovery. For three reasons I cannot bring myself to support this bill: first, because I do not believe that it will remedy the conditions; second, because I believe that class legislation, even for the most important class in our State, is not warranted; and third, because the lending of the credit of the State to individuals is full of danger, and is a financial heresy which this State once has tried to its great detriment and loss.

I was present at the discussions before the Agricultural Committee, and heard the arguments there advanced in favor of this proposal. On the other hand I was greatly impressed with the remarks of the Hon. Frank I. Mann, than whom no one is better qualified to speak for the farmers. In brief his idea was that this plan for the buying of land by the lending of money to tenants would result in a condition that would defeat the very end desired, inasmuch as it would add to the number of those who desired to purchase at the present high prices and consequently would increase competition which would in turn increase the price of land already very high priced. In my judgment the class of tenants who would avail themselves of the opportunities offered in case the legislature passed laws putting the proposed measure into effect, would be the ones who desired an option on land. If prices kept on increasing they would sell out at a profit; if they went down and the land was given up the tenants would only have lost a small amount.

Many of the better class of tenants, if they desire to own a farm, will go where land is cheaper, as our forefathers did when they left New England and New York and came west. There are hundreds and thousands of fertile acres in the United States that can be bought at moderate prices, and these are the farms the most energetic tenants will buy and cultivate, if they decide to own a farm.

I wish to call attention to the fact that the leaving of the farms by tenants is by no means the only cause of the scarcity of farm labor. Everyone who has given this subject careful study knows that hundreds and thousands of the sons of farmers, especially those sons who took part in the late war, have gone to the cities lured by the high wages and the great chances for pleasure and excitement. This class cannot be brought back or kept by the opportunity to buy the old homestead on easy terms and with cheap money. Many of them could have the farm, merely for the staying and caring for the old folks for their remaining few years, but even so they will not stay. These sons of farmers and many others will not return to the farms, until empty stomachs and prohibitive prices of food-stuffs bring them back.

There are many tenants who have been offered a chance by owners to buy farms which they rented, on easy terms, who have frankly said that they would rather rent, as they could make more money by doing so, and then when they have accumulated enough to do so, they were going where land was cheaper, to buy a farm.

We have been cited to South Dakota, and to Denmark in Europe, as instances of the successful working of state aid to tenants. In each of these instances the conditions are so different from those in Illinois that they furnish no criterion from which we can draw conclusions. In South Dakota the law has only been in force three years, and no one can yet tell what losses may occur to the state. Then too, the farm lands are so much cheaper, and the chance of a much larger increase in their values so much greater, that the risk assumed by the state is much less than on the high priced lands in Illinois. In Denmark the farms only average sixteen acres, and there is no cheap land, or indeed, any land nearby, where tenants may go. Denmark is within easy access of many very populous nations, which furnish this country with an outlet at high prices for the products of its intensive farming.

It is pointed out that current prices of lands are not justified by the actual earning power, and this is not only a financial disadvantage of being an owner, but makes it practically impossible. The average net worth of tenants, as determined by this study, is only about 12 per cent of the value of the average farm capital. Even if the tenant can borrow the remainder of the capital necessary to become an owner, he could not expect to earn, under the favorable conditions with respect to crops and prices prevailing in 1918, more than 3½ per cent on the total capital borrowed. Falling prices for farm products or unfavorable crops would make the prospect even less satisfactory.

If funds are raised to loan on land, it must be by bonds guaranteed by the State, and the rate of interest must be low, if the tenants are to be greatly benefitted. While first class bonds, and five to ten year notes, of the largest and strongest corporations in the United States are selling on a 7½ to 8 per cent basis, how can the State expect to sell its bonds unless an approximate rate of interest is paid? Right on the start we have an initial loss to the State, even if every tenant pays as expected, of from 2 to 2½ per cent per year. Continuing over a series of years this would amount to a very great sum, the gross amount, of course, depending on the amount of business done. Then too, there would certainly be losses from failure of tenants to keep up their payments. If poor crops occur, these sums would be of no mean proportion. How are these losses to be met? There is only one way—by taxing the property in the State. You and I would pay the losses. This is certainly class legislation, which should not be permitted.

If the State lends its aid to farmers as a class, why should it not lend its aid to the laborer to buy a lot and build his house for a home. I am aware that the farming class is the most important in our country and that without its products life would become extinct. But it is a class, all the same, and class legislation is wrong in principle and disastrous in results.

This State has had experience in loaning its credit to individuals and in establishing a State bank. I need not stop to speak of this disastrous experience to a body of such intelligent men as compose this Convention. While the details of that experiment were not the same in all respects as are contemplated in this proposal, still the basic idea, the lending of State aid to individuals, is the same, and the same results are liable to occur. Having in mind this experience, together with others of a somewhat different nature, the framers of the Constitution of 1870 placed a section covering this matter in that instrument. Section 20 of the Constitution of 1870 reads as follows:

"The State shall never pay, assume, or become responsible for the debts or liabilities of, or in any manner give, loan or extend its credit to, or in aid of, any public or other corporation, association or individual."

The Government of the United States is striving through the Federal Reserve System of Banks to unify the whole banking system of our country, which would be the surest safeguard against panics and hard times. This proposition, which carries with it the probability, yes, well nigh the necessity of establishing a State Land Bank, would be directly opposed to the policy of the government, and to the ideas of nearly all of the best financial minds of the country.

Let me close, as I commenced, by urging that for three reasons this proposal should be defeated; first, it would not accomplish the desired end; second, it is class legislation; third, it is lending State credit to individuals, which is unsound in theory and disastrous in practice.

Mr. GORMAN (Cook). After listening to the very able discussion of this proposal by the last speaker, I am convinced that in order to please the farmers we ought to remove from the proposal the tarnish of class legislation, and to accomplish that thing I now offer this amendment:

AMENDMENT No. 1.

Amend Proposal No. 361, in line 4, after word "lands" by inserting the words "residences and business buildings."

CHAIRMAN GRAY. The question before you is on the adoption of the amendment.

Mr. DUNLAP (Champaign). I think it is evident that an amendment of this kind is merely offered for the purpose of embarrassment of the proposition, and I hope that there will be no question but what this matter will be voted down. If we are going to consider this thing in a serious way, and I think it is a serious proposition, let us consider it on its merits and not undertake by subterfuges and subsidiary methods of this character to destroy the element of merit that the proposition has in it. I appeal to the delegates here as a fair proposition, fair to the interest that this represents, a matter that we are all interested in, to vote down this amendment. A matter of taking care of the business buildings in Chicago or some other city it seems to me is ridiculous and ought not to be entertained.

(Amendment lost.)

Mr. MILLER (Cook). Mr. Chairman, just a word on the main question, the Senator has kindly furnished me an article published in the Country Gentleman by the Governor of South Dakota upon this subject, in which he begins as follows, and I will read two short paragraphs:

"In South Dakota we have been trying to go just as far in the direction of helping one another as we can go with safety. We like to look upon the people of our state as one great family, with common interests. We believe in extending the credit of the whole family to assist worthy members in safe enterprises, for we know that by doing this the wealth of the family as a

whole will be increased. This is not Socialism nor is it paternalism in any objectionable sense of the word. It is good sound business practice.

It has been said that we are as radical as North Dakota. This is not true; but we are more progressive than North Dakota. Many of the good measures promised to the farmers of North Dakota by the leaders of the new radical movement known as the Nonpartisan League have been in force and effect for many years in South Dakota. The most important of these is our Rural Credit Plan, the Bank Guaranty Law and State Insurance."

The rest of the article is devoting to showing that agriculture, being the main and almost the whole industry of the state, it is right that the state should protect the citizens engaged in that industry, from foreign extortioners, who were loaning money. There is nothing in the article to indicate in the two years the law has been in force that it has resulted in increasing the number of home owners to any extent at all.

Personally, I am one of those that believe it is very important in this State to increase the number of home owners by reducing the size of the farms and also reducing the number of absentee landlords who live in cities. The trouble is that the plan proposed has not worked anywhere and every plan or scheme that the mind of man can devise has been put in operation and has been attempted somewhere.

Now, if this measure were coupled with some such measure as that adopted by Denmark, or some such plan as that adopted by England more recently, so as to discourage large holdings of land, I am inclined to believe that I would be for it, if the gentleman will only couple the two I think I will go in with him.

(Whereupon Mr. Dunlap resumed the chair as the presiding officer.)

Mr. GRAY (Adams). I move you that the committee do now rise and report progress.

(Cries of "no.")

CHAIRMAN DUNLAP. The Chair understands that there are some committee meetings to be held at 4:00 o'clock, and at the request of the President this motion is made.

Mr. PINCUS (Cook). I move for a consideration of the question.

Mr. TRAUTMANN (St. Clair). I move that we now proceed to vote upon the adoption of Proposal 561.

Mr. WARREN (DeKalb). Before you take a vote upon this question, I wish to speak a few minutes upon the subject. I can easily see in the commencement here that the opinion of the delegates of this Convention is opposed to this proposition. I am no prophet, nor the son of a prophet, but I will predict ere twenty years pass by, if you should be sitting in another assembly of this kind, those that are not interested would be very much interested and would want to take due consideration of this subject. It is one of the most serious situations that is facing the State of Illinois today.

Brother Delegates, I want to speak upon this subject as it will be one of the great questions that must be met in the near future, if we do not meet it at the present time. We are facing a situation that the great State of Illinois must take some action upon. I shall, in all probability, never have the opportunity again of bringing this matter before a body of men like this, coming from all sections of the State, and from so many different lines of work, and it is certainly a pleasure to me, coming from a farm, to find so many in this Convention who spent their boyhood days upon the farm. I find that some as boys spent their early days of life in the Green Mountains of Vermont, some come from the hills of Ohio, and the great prairies of the Mississippi Valley.

I want to call the attention of those who come from the cities to a system that has grown up in our agricultural districts, and so rapidly that it is becoming alarming. Pause with me for just one minute and answer this question. How does it happen that so many cities have grown up over this great Mississippi Valley, including the great City of Chicago? I believe it is due to the fertility of this great Mississippi Valley, and I am going to

try to make it clear to you how fast we are wasting this soil fertility, our greatest resource; and the danger of not maintaining these cities if we continue in this wasteful practice.

How long are we going to continue to destroy the very foundation of all industry? If we are going to permit our soil to be depleted till there comes a serious shortage of food products, then I am afraid it will go down in history as one of the tragedies of the world. As it has been pointed out, I am afraid we are not going to learn the lesson that has been taught us by the nations that were wrecked in the past. We are repeating the history of Rome to a remarkable extent.

Some twenty years ago we noticed a tendency, even in our best farming sections in this State, of a declining rural population, and I view with alarm the increase of this movement. It commenced in the eastern states sometime before this. I will cite you one instance of many: In a certain school district in New York State, there were seventy children who attended the rural schools. Today there is not one family in the district, and there are only two sets of farm buildings there. The fertility of this soil has been wasted until the farms will not produce food in sufficient quantities to furnish the necessities of life for the families that once lived upon the farms, to say nothing of surplus food for the people of the cities.

I have told some of the delegates of how rapid this change has been in my own district of the State, and I want to repeat it here.

A little over 40 years ago I attended one of the best rural schools in our section. Our teacher at this time was the late U. S. Senator J. P. Dolliver, of Iowa, and I believe there were twenty families represented in that school, and only two of those families did not own their own farm and home. In the same district now, the only children that are attending this school from their own homes are my children—or, in other words, in the same district in 40 years, the figures are reversed, instead of two families not owning their own homes and twenty who did, only one family owns its own home now, and twenty do not. Tenantry has increased at an alarming rate.

Schools, churches, industries and empires have gone to the wall because of a ruined agriculture. The land of Palestine was a land that "flowed with milk and honey" and was densely populated. Palestine now supports a miserable and straggling population of Arabs. In David's time there were two million people there; the figure now is 700,000.

A great many of our richest valleys of our eastern states have been farmed so long and depleted to such a degree that you can now buy these farms for the price of the buildings. The census report of the United States shows that between the years 1880 and 1910, about ten million acres of improved farm land was abandoned. In parts of our own State of Illinois farm lands have ceased to produce with a profit.

We are following the same system of farming practiced by the Egyptians, that of rotation of crops with clover—a system that has brought agricultural ruin wherever man has tilled the soil long enough.

I am sorry the editors of our great dailies and magazines do not pause long enough to study this situation and warn our people of the impending danger. The time is here for us to work out a policy in regard to agriculture.

These conditions are worthy of your serious consideration. Whether you are a banker, merchant or manufacturer, this is a condition that is serious, this permitting such great waste of our natural resources, which are so necessary to our future prosperity. This responsibility does not rest alone upon the farmer, but with men of trained minds, whatever their occupation, who know that knowledge exists, and how and where to get it and disseminate it. Ignorance of the science of agriculture is the cause of these unfortunate conditions.

We are making use of every available resource known to man to take from our children and the succeeding generations the plant food stored up in our soil for them.

In the industrial world we find the Studebaker Company of South Bend, Indiana, has commenced building houses for their employees at an estimated cost of \$20,000,000, and this work is to be completed within five years. The Kelley-Springfield Tire Company at the present time are moving from Akron, Ohio, to Cumberland, Maryland, and they are commencing to build 3,600 houses within the next two years. Other instances might be mentioned. The industries are preparing, and properly so, it seems to me, to take care of their employees. But we forget the basic industry of the nation. We all recognize that labor must be properly housed, etc., but the course we are pursuing with the farms, thoughtlessly, perhaps, is certainly going to deplete the soil of this great State so that food in the future will not be sufficient to meet the demands of the people.

Some will say that a system of rural credits is class legislation. Perhaps it is. Others say that it will provide a way for tenants of the farms of this great State to own the farms they operate. It will gradually change this system of tenantry, and start the movement in the other direction. If we make a start towards maintaining the fertility of the soil, and thus insure a supply of food to flow in a steady stream to our industrial centers, we have done something to protect the resources of this State, by protecting the one resource that is the very foundation of prosperity.

Today we are facing a serious shortage of farm labor and according to press reports in some sections of this country they are considering whether it would not be a good plan to allow the Chinese and Japanese to come in, so that the farms can secure cheap labor. That will never do, if you want to wreck our nation, adopt this policy—for that is what the Roman Empire did when they faced the situation as we do today. I made this statement some time ago—that I did not believe the farmers wanted anything as a class in this Convention, and if any of the delegates consider this a class proposition, vote against it.

If I could get the members of this Convention to think over this agricultural problem that the State of Illinois faces today, and adopt a policy that will maintain the elements in the soil that are necessary for plant growth, then the future supply of food will be guaranteed to the people of Illinois.

I have attempted to picture to you a system that if followed will become serious, and I hope we will adopt a State and National policy that will put agriculture on a sane and sound basis; and gentlemen, you should not be deceived, you can exchange the production of these great farms of the Mississippi Valley for dollars.

I have cited you a couple of instances where corporations are providing to house their employees, where 20 per cent of the laborer's income is involved. What shall we do about the food supply, where 40 per cent of the laborer's income is involved? I believe this is a problem that will become serious in the near future and we should work out a State policy to conserve the fertility of this great State of Illinois. It will be possible to double the production of food products in this State if we choose one system. If this is not done, we shall witness decreased production, and the day will come when the Mississippi Valley will be unable to feed the people of the cities.

Mr. ELTING (McDonough). I move we adjourn until 2:00 o'clock.

Mr. CARLSTROM (Mercer). A point of order. There is a motion before the House.

Mr. HAMILL (Cook). I am informed that it is the earnest desire of the President that we do not sit this afternoon, so that the committees may meet and get their reports acted on. So I think in view of that it would be unwise for us to go on with this discussion this afternoon.

(Motion adopted.)

Whereupon President Woodward resumed the chair.

Mr. TRAUTMANN (St. Clair). Mr. President, I desire to report as chairman of the Committee of the Whole that we had under consideration Proposal No. 369 and reported same back with amendments, with the recom-

mendation that they be adopted and referred to the Committee on Phraseology and Style.

THE PRESIDENT. You heard the report of the Committee of the Whole.

(Report adopted.)

Mr. TRAUTMANN (St. Clair). As chairman of the Committee of the Whole, I desire to report that we had under consideration Proposal No. 370 and reported the same back with the recommendation it be not adopted.

THE PRESIDENT. The question is on the adoption of the report of the committee.

(Report adopted.)

Mr. DUNLAP (Champaign). I report as chairman of the Committee of the Whole that the committee having under consideration Proposal 361 asks leave to sit again.

THE PRESIDENT. You have heard the report of the chairman of the Committee of the Whole on the consideration of Proposal 361, and the question is on the adoption of the report of the committee.

(Report adopted.)

THE PRESIDENT. Any further business for the Convention?

Mr. REVELL (Cook). I move the Convention do now adjourn until 9:00 o'clock tomorrow morning.

Motion prevailed, and the Convention adjourned until Wednesday, June 16, 1920, at 9:00 o'clock a. m.

WEDNESDAY, JUNE 16, 1920.**9:00 o'Clock A. M.**

Convention convened pursuant to adjournment.

The President in the Chair.

Prayer by the Rev. J. G. Wright, Grace Church, Greenville, Illinois.

THE PRESIDENT. The Journal of Thursday, June 3d, was placed on the desks of the delegates yesterday and is now subject to correction. There being no corrections proposed, the Journal of Thursday, June 3d, 1920, will stand approved. It is so ordered.

Thereupon the Convention proceeded upon the order of reports of standing committees, reports of select committees, introduction of proposals, first and second reading of proposals, motions and resolutions.

Mr. TRAEGER (Cook). I received three petitions this morning. I would like to have them referred to the Committee on Bill of Rights.

(So ordered.)

Mr. McEWEN (Cook). I have a similar petition which I ask take the same course.

(So ordered.)

Mr. SHUEY (Coles). I have a petition which I ask take the same course.

(So ordered.)

Mr. BRENHOLT (Madison). I have a petition on the same subject, and I would like to have it follow the same course.

(So ordered.)

THE PRESIDENT. The Convention will now resolve itself into the Committee of the Whole to consider matters on General Orders, Mr. Dunlap to act as chairman of the Committee of the Whole.

(Chairman Dunlap presiding.)

CHAIRMAN DUNLAP. I understand that there is some desire on the part of some of the members to proceed with the legislative proposals, the reports from the Legislative Committee. If there is any desire to do that, I will say on behalf of the Committee on Agriculture that we will be willing to have the matter before us postponed until next Tuesday, if that is the desire of the committee. Otherwise we will proceed with the matter in hand.

Mr. HAMILL (Cook). I think it would probably suit the convenience of the delegates of the Committee of the Whole to discuss and dispose, if possible, of the legislative articles and get through with those. If it is in order, I move that the further consideration of the Farm Credit Proposal be postponed until after consideration of the legislative matters by the Committee of the Whole.

CHAIRMAN DUNLAP. Will you make that next Tuesday?

Mr. HAMILL (Cook). Yes, I move it be postponed until next Tuesday.

Mr. DIETZ (Rock Island). I am deeply interested in this rural credit proposal, and I am going to be unavoidably absent next Tuesday, and if the committee desires to pass it at this time until then, I would like the unanimous consent of the committee to be recorded for the proposal. I have no objection to its being postponed, however, other than that.

Mr. GORMAN (Cook). A division is called for on the motion of the gentleman from Cook.

Mr. GREEN (Champaign). A point of order, Mr. Speaker. The point of order is that this committee cannot postpone to a day certain the consideration of this proposal. Of course, I do not assume that there is any disposition to do anything but that which would accommodate the business of the Convention. It is a bad precedent if we start postponing in the Committee of the Whole these proposals during the debates. It is not

proper under the rules and specifically prohibited, and if we can pass to the next order of business and take up some other matter it would be better, because the Committee of the Whole cannot do this thing under the rules.

CHAIRMAN DUNLAP. Your point of order is that it cannot be made a special order?

Mr. GREEN (Champaign). Yes, that it cannot be postponed to a day certain. We, of course, can pass to another business and it naturally would follow that this would be deferred, but for this committee to set it as a special order of business next Tuesday, that is a matter which cannot be done.

Mr. HAMILL (Cook). My recollection of the rules is the Committee of the Whole cannot postpone indefinitely.

CHAIRMAN DUNLAP. The only thing I find in the rules is that the Committee of the Whole cannot postpone it indefinitely, so the point of order is not well taken.

Mr. HAMILL (Cook). May I inquire of the chairman as the chairman of the Committee on Agriculture how much time under the circumstances the debate on the farm credit matter will take?

CHAIRMAN DUNLAP. I cannot say, but I think possibly a couple of hours, from what the chair has knowledge of, from the members who wish to speak.

Mr. HAMILL (Cook). Well, I will not withdraw my motion.

Mr. GREEN (Champaign). May I be heard just a minute further on this point of order? How does the Committee of the Whole know whether the Committee of the Whole will be in session next Tuesday?

CHAIRMAN DUNLAP. If it is not, the matter will not come up for consideration, of course, just the same as if the Constitutional Convention was not in session on next Tuesday it would not come up. You have heard the motion of the gentleman from Cook. All those in favor of postponing the debate on the Farm Credit Bill will please rise.

(Motion lost.)

CHAIRMAN DUNLAP. We will then proceed with the discussion of the rural credit proposition, and I have an amendment that I would like to offer to that, so I will ask Delegate Dove of Shelby county to please preside.

(Chairman Dove presiding.)

Mr. DUNLAP (Champaign). It developed in the discussion yesterday that there seems to be some fear that if a state went into this matter of rural credit on the plan proposed that some indiscretion perhaps might be made by the General Assembly. I thought—the thought of the Committee on Agriculture was, that if we wished to have an amendment to the Constitution, we would leave this matter open further on, if necessary, for some form of credit by the State to be extended for this purpose.

Now, it was thought by the committee, in the first place, that the legislature would exhaust every other available means for financing this proposition, but we are up against this sort of a proposition: There are other states of this west and northwest that have already adopted a rural credit act similar to the one that has been proposed in North Dakota—or South Dakota and California and Kansas and Oklahoma, and perhaps in Wisconsin and Nebraska.

Now, if an emergency arises and it proves that this is a national proposition, we should not here in the Constitutional Convention undertake to bar the people of the State of Illinois from the benefits of such an act as they might pass.

Now, I am proposing, here in this amendment that I will offer, to leave this matter to the people of the State of Illinois to pass upon as to the issuing of this credit, if that is necessary, by the action of the legislature, before any indebtedness is incurred. Now, the object of that is to leave the way open for action. This Constitution, if it is adopted, will mean probably that it will run for the next fifty years, at least, and now to undertake to block the way here—I understand from one of the delegates here that the Supreme Court has just rendered a decision against the Primary Law of 1919; the old clause stands. The Supreme Court has knocked out the one

of 1919. I saw there was considerable confusion here, and I thought that before I proceeded I would make that announcement.

I want to call the delegates' attention to this discussion, and ask them to give serious consideration to this matter of rural credits. I consider that it is one of the most serious propositions that has been put up to this Convention. Now, this is not a matter to be rejected with thoughtlessness; it is not a matter you can pass over and say, "Oh, it is a foolish proposition." We are stared in the face here by actual conditions, and if you do not take some heed as to those conditions and try to remedy them, why, they will become worse than they are at the present time. We are going from bad to worse on this proposition. Now, the Committee on Agriculture has endeavored to bring to you here a conservative proposition on this matter. They have undertaken to solve this problem in a way which will not prejudice the rights of property, but simply encourage the people to go back to the farms and become farm owners.

Now, the present conditions are such that they have a tendency to create large farms and large estates, and we are running into that. We have them here and they ought to be divided and sold out to small holders.

Mr. President, in order that the members may understand this amendment which I propose, which will modify this proposal, I will read it.

AMENDMENT NO. 2.

Amend Proposal No. 361 by inserting after the word "Constitution" in line 5, the following sentence:

"The State, however, shall not become indebted in any manner for the establishment and maintenance of such funds unless the question of incurring such indebtedness shall be submitted to the voters at a general election and be approved by a majority of those voting on the question."

That is to leave the matter open so that any action can be taken by the General Assembly, but no action can be taken by the General Assembly until action is taken by the people at a general election.

Mr. HAMILL (Cook). It does not mean that.

Mr. WILSON (Cook). What indebtedness do you mean?

Mr. DUNLAP (Champaign). The indebtedness would be for bonds which would be sold by the State.

Mr. WILSON (Cook). For each indebtedness the bonds would have to be issued, as they came along?

Mr. DUNLAP (Champaign). I would take it that way.

Mr. WILSON (Cook). That would call on the people to vote on every question that came up?

Mr. DUNLAP (Champaign). This refers to this particular form of bond issue for this purpose.

Mr. HAMILL (Cook). If the section as amended, as now proposed, should be adopted, would there be anything to prevent the General Assembly from making an appropriation of a fund to be loaned out to farmers without the issuing of bonds?

Mr. DUNLAP (Champaign). If I understand it, they will have to incur the indebtedness to levy a tax for that purpose.

Mr. HAMILL (Cook). Do you mean that the General Assembly cannot levy a tax until the indebtedness is already incurred?

Mr. DUNLAP (Champaign). That would be the incurring of it, wouldn't it?

Mr. BARR (Will). I would like to ask the delegate's permission to make a motion at this time.

Mr. DUNLAP (Champaign). I will yield.

Mr. BARR (Will). Mr. Chairman, it occurs to me that many of the delegates are here for the purpose of specially considering the matter pertaining to the legislative department, and many of the delegates are required to be away from the Convention within a few days and desire to participate in the proceedings pertaining to the report from the legislative department. Therefore I move, Mr. Chairman, that the committee proceed

to the next subject matter on the calendar, or the next order of business on the calendar, which I understand is the report of the legislative department. I think it has the power to do that, and I make that motion.

Mr. GREEN (Champaign). It seems to me that would be the wise procedure, as I understand now, the Senator will offer the amendment, so that the record shows the exact status in which it is left, which will give us an opportunity to consider the whole subject matter, so that the next discussion will be riper than it would be if discussed here. That is your purpose, you have offered the amendment?

Mr. DUNLAP (Champaign). I will send this amendment to the desk, and ask for the serious consideration of all of the delegates to this Convention on it. We really ought to do something along this line, and if there is any party that has suggestion to make, I am, for one, willing to entertain them, and I hope that the matter will go over and not be considered until next Tuesday, so that ample time can be given for its consideration.

Mr. BARR (Will). Is it agreeable to you, Mr. Delegate from Champaign, that this motion should prevail to pass to the next order of business?

Mr. DUNLAP (Champaign). I have no objection to that motion.

Mr. GREEN (Champaign). We have the benefit of the amendment, being present, so that we will know the exact status of the record.

Mr. DUNLAP (Champaign). Yes.

(Delegate Dunlap resumes chair.)

CHAIRMAN DUNLAP. The question is on the motion of the gentleman from Will that the matter under consideration be passed at this time, and that we take up the next matter on the general order, which is the report of the legislative department.

(So ordered.)

(Delegate Shanahan presiding.)

CHAIRMAN SHANAHAN. The Committee of the Whole will be in order for the purpose of considering Sections 6, 7, and 8, of Proposal 366, and the clerk will read the minutes of the last session of the Committee of the Whole on the legislative proposals.

(Whereupon the clerk read the minutes.)

Mr. LINDLY (Bond). I move that the further reading of the minutes be dispensed with.

(So ordered.)

Mr. REVELL (Cook). I have here Proposal 366, which does not contain Sections 6 and 7.

CHAIRMAN SHANAHAN. For the benefit of the house, I desire to say that Sections 6, 7 and 8 were reported in at a later time, as you will note from the Journal of Wednesday, June 2d, 1920: "Mr. Shanahan submitted the following report: Your Committee on Legislative Department having heretofore reported in part Proposal No. 366, now further reports Sections 6, 7 and 8 of said Proposal as a majority report, and recommends that they be placed on the general orders for consideration in the Committee of the Whole as a part of Proposal No. 366."

I think it might be well to make a statement to the committee regarding Sections 6, 7 and 8 of this Article of the Constitution.

The Legislative Committee have had this matter under consideration for a considerable time; in fact, since the organization of the committee. When this committee was appointed originally, it consisted of six members from Cook county and nine members from down State. Senator Curtis was selected as the chairman of the committee. On the death of Senator Curtis, the President designated myself as chairman of the committee, and added the gentleman from Will, Mr. Barr, as a member of the committee. After discussing these sections, it was found that there was a marked difference of opinion between the country members and the city members, and that it would be almost impossible for the committee to make a favorable report that all would join in.

While the committee was discussing this proposition, an effort was made by members outside of the committee to see if some compromise could be

effected, and I understand that a committee of seven from down State and seven from the city of Chicago—neither of whom were members of the Legislative Committee—met with the President one evening and talked the matter over very fully, and attempted to bring about a compromise, but on account of some newspaper criticism, it was thought best not to continue their deliberations, and the matter dropped. So the matter again came up before the Legislative Committee, and it was decided to appoint two sub-committees; a sub-committee composed of members from down State, of which Mr. Barr was chairman, was appointed, and a committee of the Cook county members was appointed, and they discussed the matter among themselves and the down State members reported into the full committee the majority report which was reported by the Legislative Committee, to the Committee of the Whole or to the Convention, and which was referred to the Committee of the Whole.

Some of the Cook county members submitted a minority report, which was recommended as a minority report to the Convention and referred to the Committee of the Whole. The delegate from Peoria, Mr. Quinn, a member of the committee, objected to both majority and minority reports, and submitted a minority report signed by himself, which is in the form of a protest against both reports.

I might say in justice to the delegate from Cook county, Mr. Morris, who was not present at the time, that had he been present he would have submitted another minority report in the form of a protest against both the majority and the minority reports, signed by the four members from Cook county.

The members are probably aware of what the majority report is, which is a limitation of the representation of Cook county in both branches of the General Assembly. The minority report, signed by four or five of the Cook county members, provides for apportionment on the population basis in both branches of the General Assembly.

Mr. Quinn's minority report is a protest against both of these reports.

I took this matter up with the President this morning and said to him that about half a dozen of the delegates, Democratic members, desired to go to the Democratic Convention at San Francisco and it would be necessary for them to leave early next week and that they desired to participate in the debate on this question, and it ought to be considered at once, today and tomorrow, if necessary.

In talking with the President and some of the members, it was thought best to have a general discussion on behalf of the minority and the majority reports, before any motions were made. I recognize the gentleman from Will, Mr. Barr, who is the gentleman that was the chairman of the committee that submitted the majority report.

Mr. BARR (Will). I simply rise for the purpose of suggestion as to the method of procedure, that we first take up and discuss the minority report, made by the four or five members. The minority report signed by Delegate Quinn is rather a protest than a report, in that it contains no special matter outside of being a protest to both reports.

I move you that the minority report signed by Mr. Shanahan and the other three members signing that report be not adopted as a part of the Constitution; in order to get the matter before the Convention.

CHAIRMAN SHANAHAN. You heard the motion of the gentleman from Will that the minority report be not adopted. The gentleman from Cook.

Mr. HAMILL (Cook). I move as a substitute for the motion of the gentleman from Will that the minority report be substituted for the majority report.

CHAIRMAN SHANAHAN. You have heard the motion of the delegate from Cook, Mr. Hamill, that the minority report be substituted for the majority report. Are you ready for that question? I would like to say a few words.

(Chairman DeYoung presiding.)

Mr. SHANAHAN (Cook). Mr. Chairman and members of the committee: I take it it is only fair to make a short statement regarding the minority report submitted by the four members from Cook county.

The question of representation in the General Assembly has been very fully discussed during all of the months of this Convention and there seems to be a very wide difference of opinion among the delegates as to what should constitute the organization of the General Assembly.

I think it is only justice to myself to here deny some statements that have been made regarding the understandings as to what would be done in the Constitutional Convention regarding the limitation of Cook county in the General Assembly. It has been intimated that at the time the resolution was pending in the General Assembly that it was understood that the members from Cook county would agree to a limitation of their representation in both branches of the General Assembly. Some of you will recall for about a period of sixteen years there has been an agitation for the calling of a Constitutional Convention, and the resolution had been introduced at different sessions of the General Assembly, and a great effort had been made to pass the resolution and submit the proposition to the voters.

The resolution failed at numerous sessions of the General Assembly, but in the session of 1917 an extra effort was made to pass that resolution, and it was my privilege to be the Speaker of the House at that time, and I used what efforts I could to further the passage of that resolution through the House. Had I known at the time that there was any supposed understanding that there was to be a limitation of Cook county in either branch of the General Assembly, I say to you now publicly that I would have used every effort and every pound of influence that I had to defeat the passage of that resolution in the General Assembly, and I know it was only necessary to have a few votes to defeat the passage of that resolution, and you can readily see, gentlemen, the position it will put me in before the voters of the County of Cook if I, a representative from the County of Cook, as the presiding officer of the House of Representatives, would allow such a resolution to pass with a supposed understanding that there was to be a limitation of Cook county's representation in the General Assembly.

I now want to deny that there ever was such an understanding; that any man ever spoke to me about such an understanding. I don't know whether there was such an understanding in the Senate, but I know there was never such an understanding in the House, and I know further that not one of the fifty-seven members of the General Assembly from Cook county would have ever voted for such a resolution if they knew in advance that Cook county's representation in this General Assembly was to be limited, because I do not believe that any man elected from a district in the city of Chicago could afford to sit in the General Assembly and be a traitor to the county that he in part represented.

I have heard the statement, and the statement has been made to me by members of this Convention, and I want to go on record and say that I never knew of any understanding between any member of the General Assembly, either of the House or Senate, that if there was a Constitutional Convention called that Cook county's representation in the General Assembly would be limited, and I further say to you gentlemen that in order to maintain my position, if such a proposal as this should pass this Constitutional Convention and receive a majority of the votes, that I would be compelled, in justice to myself, to withdraw from the Convention, because forever afterward I would be cursed and damned by the people of the city of Chicago, who would say, "You were in the responsible position, you were in the place of power, and you could have prevented such a resolution passing the General Assembly, and it never would have been presented to the voters of the State of Illinois."

Now, my friends, I have merely this to say in regard to the minority report as submitted by the four or five members from the city of Chicago. It provides for the organization of the General Assembly, having a Senate to be composed of fifty-one members, as at the present time, to be elected in districts, fifty-one districts. The State to be divided equally on a basis of

population as provided by the census of 1920. A House of Representatives to be composed of three times the number of Senators, as we have at the present time, 153, to be elected in 153 districts in the State of Illinois. The General Assembly to divide the State into 153 districts on a population basis, so every part of the State would have equal representation.

Now, I feel, gentlemen, that is the only basis on which you could have a fair and equal representation in the General Assembly. I have heard it said many times that the city of Chicago and the County of Cook combined against the down State. I have heard it said that the down State combined against the County of Cook. I want to say to you, my friends, that after twenty-eight years' experience in the General Assembly I have never found the County of Cook united solidly against the down State, and I have never found the down State united solidly against the County of Cook, and in justice to the members of the General Assembly who have served in these many sessions, especially those from down State, there never was a time when the County of Cook or the city of Chicago came down here and asked for legislation and knew what they wanted and agreed upon it, but what the members from the down State districts were always willing and ready to give them the legislation asked for; and I have never remembered the time when the members from Cook county failed to support the members from down State in their request for legislation.

So I say to you, gentlemen, that is merely a bugaboo, this fear of the State being controlled by the County of Cook or the city of Chicago, and I say in conclusion that all the members want from the city of Chicago or the County of Cook, is equal representation in the General Assembly on the basis of population.

(Chairman Shanahan presiding.)

Mr. BARR (Will). Mr. Speaker and gentlemen: As has been suggested by the chairman of this committee, the down State members of the Committee of the Legislative Department were formed into a sub-committee, and the members of the Committee of the Legislative Department from Cook county constituted a sub-committee.

I acted as chairman of the sub-committee designated as the down State members of the legislative committee.

I do not intend at this time to make any argument with reference to the report presented by the majority of the Committee on Legislative Department, made up of the down State members, but rather simply to make an explanation of what this report seeks to do.

I want to state first that this sub-committee gave the matter of the Constitution, or the make-up of the legislature, their best consideration that it was able to give. The members of that committee, many from the various parts of the State, and only one from any county, scattered all over the State, outside of the County of Cook, endeavored as far as possible to look at this problem not from the point of view of any particular county, but from the point of view of the State at large.

We endeavored, insofar as we could, to forget that we were citizens of Will county or of Kane county, or any other county of the State, and perhaps it was easy for us to do that, because we came each of us from a different county, from a different part of the State, and from a different community, and we hadn't that same attachment or influence that would be natural if we did come from the same community or the same county, and we considered this matter as a State matter. We tried in just the best way that we could to suggest a proposal that would be for the best interests of the great State of Illinois and not in the interests of any one or two or three or half a dozen or eight communities, or nine communities, but for the interests of the State at large, and I think that possibly we were able sometimes to look at the subject from a State-wide point of view, because, as I have said, we came from different parts of the State, each part and each community having its different motives to follow, and each having its different interests aside from the general interest of the State, but all of us endeavoring, insofar as possible, to set aside, if we had any motive or interest whatsoever, that interest, and to write a report that appeared

to us to be fair to all of the communities of the State, and which, if the legislature was so constituted, would enable them to write the laws for the State as a whole, in the interests of the State as a whole.

The Constitution of the House of Representatives, and I am taking that up first because it is the least simple of the two houses, you will observe provides for at least one representative from every county in the State. I think most of the members of this sub-committee were from what might be termed the larger counties, but we felt that every county in the State was a separate unit, politically and socially; that each county of the State looked upon itself as a unit, a political unit of the State, in the same sense that the State is a political unit of the nation, and that each county has its distinct problems, separate from those of every other county; and that each county should, in one house or the other, have some representation.

It was the belief of some of the members of the committee that a representation in a law-making body, unless that representation was so large as to nearly control or control the law-making body, could be just as well represented by one representative as it could by two or three.

In fact, it is my own view, like our own county, for instance, which now has three representatives in the General Assembly, that we could perhaps be better represented by one representative in the General Assembly than by three; that the responsibility would not be divided and the class of men in that kind of representation would be probably better than, if there would be more, but we did feel that each one of these separate counties, whether they had 7,000 inhabitants or 100,000 inhabitants, counties outside of Cook county, are entitled to at least one voice in the legislature to present their problems and to represent them, and so we provided in this report that every county in the State of the 102 should have at least one representative in the General Assembly.

We further appreciated the fact that the great county of Cook, lying at the head of the State, with its wonderful industries, its wonderful businesses, its wonderful people and its wonderful enterprise, was entitled, on account of its diversity of interests and diversity of people and diversity of enterprise, to a larger representation, of course, than that of the smaller counties, so we endeavored to work out some basis of representation that might carry out the two ideas. First, the representation of each county, and, second, a fair representation of the people in the different counties.

I might add further, to be very plain about that, it was the view of this sub-committee, too, that no single community of this State and no single county in this State, should ever, under the Constitution of this State, be permitted, no matter how thickly it might be populated, no matter how many of hundreds of thousands and millions of people might congregate within its confines, should ever be in a position to control the law-making body of the State of Illinois. It was our belief that local self-government should not be extended to the point where a locality should control the entire State by virtue of the fact that in the smaller centers there might be congested a large number of people. And I want to say to the gentlemen from Cook county very frankly, that in working out these plans of representation we carried in mind these three things: First, that every community, in our judgment, should be represented in the General Assembly; secondly, that the element of population should be taken into consideration in determining the representation in the General Assembly; third, that no single community in the State of Illinois, no matter how dense its population, should or could safely be permitted to have the majority of representation in the law-making body for the entire State.

So we worked out this proposal with those three thoughts in mind. We do not consider that it is perfect. There are not many things that can be perfect that have to be applied to practical conditions. A principle is a beautiful thing in theory, but when you come to apply it to practical, actual, concrete conditions, you cannot change the concrete conditions; then you must modify the principle so as to make it apply to the conditions you have.

Now, then, with those ideas in mind, and with those thoughts in mind, we sat down, without any idea of doing any injustice to any county in this State, and let me suggest that the percentage of representation as now had by some of the counties in the State, including my own, is decreased in a greater degree than the proportionate representation of Cook county. Let me suggest to you gentlemen from Cook county that there was not the thought in the minds of this committee that because Chicago was a great, big city, and that its population was so different from the population of other towns and cities of the State, that for that reason alone there should be any limitation on Chicago; that it was not worked out with the idea that the people of Chicago think differently or act differently or are any less to be trusted than the people of any other community in the State, but it was the judgment of this committee that no matter what the population of a county might be, whether it was made up of farmers or whether it was made up all of working men and women, or whether it was made up entirely of a leisure class, which we do not have much of in this State, that no county, no community, no separate community in the State of Illinois should ever have the power, should ever have sufficient representation or representatives in either one of the assemblies of this State so as to control that assembly in the matter of making laws, laws that would affect the entire State.

It is not a question, gentlemen, of down State and Cook county. It is not a question of the people outside of Chicago wanting to do something to Chicago. It is simply a matter of 101 counties endeavoring to present a plan of organization for a law-making body for the entire State in such a way that the legislation of the State is most likely to be adopted in the interest of the entire State, rather than the interest of any other community.

It is a case of 101 communities, separate, without any controlling or unifying influence, simply acting along lines that they feel are for the protection and the best interest, not of the 101 counties, but for the best interest and protection of the welfare of the entire State, including the whole 102 counties, Cook county and the balance of the State.

Now, gentlemen, that is the way in which this matter has come into the minds of the members of this committee. We have endeavored to act in this matter in fairness. We have endeavored to solve this problem in the very best way that it might be solved for the State of Illinois. Whether successful or not will no doubt be developed on the discussion that is to occur here. But let us start out, Mr. Chairman, with this in mind: Let us not have any bitterness in this discussion if we can avoid it; let us appreciate the fact that we are all sitting here as citizens of the State of Illinois. We may not look at these problems in exactly the same way. It is not very liable that we shall, but if we are honest in our opinions, if we are to work out these problems in the very best way that we can for the State of Illinois, then let us in handling and discussing and arguing the matter that is before this Convention, approach it, if we can, not as residents of a particular community, not because we live in Chicago or Cook county, or Joliet or Peoria or Cairo, but let us fling aside, if you please, our local interests, let us not approach this matter with the idea of what will my constituents in Chicago or Peoria or Aurora say or feel with regard to my position in this matter. I do not believe that we are here to represent a little bit of a corner, gentlemen, or a little bit of a section of the State of Illinois. I do not believe that I am here to speak for the people of Will county or for the people of DuPage county alone; I believe I am here as a representative of the people living in those counties, too, but that my duty as a delegate to this Convention is to look upon this problem and these other problems that are going to and have come before this Convention, as a citizen of the State of Illinois, as a delegate in endeavoring to write into this Constitution the things that would be best for the growth and the development of this State as a whole. And I believe, gentlemen, if we can, in just so far as we shall separate from our thoughts local prejudices and local selfish interests, if there are such, just so far as we can separate from our minds those thoughts and that influence, just so surely are we to arrive at a conclusion,

and the drafting of a Constitution that will not only meet with the approval of the citizenship of this State, but will be a document that is worthy of this body and the people of the State.

I want to say, further than that, gentlemen of the Convention, the people will adopt it when they understand the matter under consideration. I want to say to the chairman, with the utmost respect and admiration for his position and for his earnestness, that the people of the County of Cook will not be disappointed because he as Speaker of the House of Representatives in this State, permitted, although he had the power to prevent, or acquiesced in the adoption of the resolution that made possible the drafting of this Constitution, if this Constitution should limit Cook county, because I believe that when the people of Cook county, like the people of the balance of the State, understand thoroughly the matter under consideration, and appreciate thoroughly the fairness and justness of what shall be done in this Convention, if it is fairly done, and no other action can prevail except an action that is fair and just, instead of criticizing and condemning him as a delegate or Speaker of this house or the House of Representatives, they will rather compliment him and honor him for being big enough to take part in and assist in bringing about the adoption of a Constitution which, in my judgment, will be looked upon and recognized by the fairminded people, not only of Chicago, but of all the State, as being a document which is for the best interests of the State.

So, gentlemen of the Convention, without any argument, as I said at the beginning, it occurs to me that the majority report touching the make-up of the House of Representatives is based upon sound principles and should be adopted.

With reference to the Constitution of the Senate, I am inclined to think perhaps it would be wise not to develop the discussion as to both parts of the report at once. They are entirely separate matters, and I think perhaps it would be better to confine our discussion to the Constitution of the House of Representatives first, and perhaps take up the matter of the Constitution of the Senate later.

I just want to say in passing, as you have observed from the report, the make-up of the Senate, as provided in this report, is exactly based upon the number of representatives in the Senate from Cook county and the down State, as at present exists.

Gentlemen, let us thoroughly discuss this matter, clearly if we can but fairly, with the idea of conceding that each of us is endeavoring to arrive at an honest solution of the problem, with the idea in mind of adopting and writing into the Constitution a provision for the makeup of the House of Representatives that will be purely representative and will be in the best position for the legislature to enact laws for the majority of the people of the State of Illinois.

CHAIRMAN SHANAHAN. The question is on the motion of the gentleman from Cook county to substitute the minority report for the majority report. Do you desire a vote on that, and then discuss the majority report, or do you desire to discuss it at the present time?

Mr. MOORE (Macon). I would like to be heard a moment before you put that motion. I am opposed to the adoption of this substitute, and cannot consent to turning over to any one county in the State of Illinois the entire control of the State.

I am not strong for the control of both houses of the General Assembly as against Chicago, but I think it would be a calamity for the State of Illinois to adopt this substitute. I do not think it would be a righteous thing at all to turn over to the City of Chicago and the County of Cook the control of the destinies of the 101 counties outside in the State of Illinois.

My attitude on this subject has been somewhat challenged. I had a proposition which I made to a meeting of the down State delegates, which seemed to me to be a fair division of the representation in the General Assembly. I do not think that the city of Chicago and the County of Cook should be a mere appendage, any more than I think the downstate of the State of Illinois should become a mere province of Cook county, and I shall

bitterly oppose any attempt to turn over to the sixth German city in the world the government of the State of Illinois. I am willing that Chicago should have a fair representation in the General Assembly, and I have so stated.

Mr. REVELL (Cook). I wonder if the gentleman will yield to a question?

Mr. MOORE (Macon). What is the question?

Mr. REVELL (Cook). Can I ask for your authority in the matter which you just repeated, the sixth German city in the world?

Mr. MOORE (Macon). The Mayor of the city of Chicago.

Mr. REVELL (Cook). Thank you.

CHAIRMAN SHANAHAN. I hope the gentlemen will bear in mind what is under discussion and not bring in any side issues.

Mr. MOORE (Macon). At any rate, whether it is the sixth German city of the world or whether it is not, I do not think it is fair that the State of Illinois should be subject to any one city in the State.

I should like to see this matter so compromised that the State of Illinois, outside of Chicago, shall be thoroughly protected against the domination of that city, and at the same time I should like to see such measures taken as will protect Chicago, and for that purpose I have always stood in favor of giving the greatest degree of home rule possible to the city of Chicago, in order that the General Assembly of the State of Illinois might not feel obliged at any time to enter too deeply into the local affairs of that city and that county. I hope the motion will not prevail.

CHAIRMAN SHANAHAN. The question is upon the adoption of the motion of the gentlemen from Cook county to substitute the minority report signed by the members from Cook county for the majority report.

Mr. JARMAN (Schuyler). I understood at the beginning of this discussion that there was to be a full discussion of this matter.

CHAIRMAN SHANAHAN. They seemed to want to take up the minority report and then discuss it.

Mr. JARMAN (Schuyler). I think it would be better to take up a discussion of the whole question, as suggested in the first place, before any vote is taken.

Mr. SUTHERLAND (Cook). On the motion of the delegate from Will, and at his instance, the matter came up on a discussion of the minority report, and it seems to me we would make better progress if we disposed of that one way or the other first, and if that is settled, we can proceed with the next order. That order being established with a view merely to the expedition of the matter. I make the point of order that the discussion of the minority report is now in order.

CHAIRMAN SHANAHAN. The point of order is well taken; the only thing under discussion is the motion of the gentleman from Cook, so that is the matter under discussion.

Mr. JARMAN (Schuyler). Didn't the Chair state that there would be a discussion on the whole question?

CHAIRMAN SHANAHAN. He stated that he hoped it would be so, not that it would, not that it would but that he hoped it would, because he could not control it.

Mr. RINAKER (Macoupin). It seems to me the suggestion of the Chair was one that was accepted by the members, and that they did not understand. I thought the discussion was to be limited to substituting one for the other, and if that was the discussion, then the question of whether or not there should be a substitution of the present plan or some other plan is a proper question now for discussion, and that should be the first question determined, whether or not we shall stand for the proportionate representation. I think that is the question that is properly before the House now for discussion. It is an affirmative proposition; the Chair made the suggestion.

CHAIRMAN SHANAHAN. The Chair made the suggestion, and then afterwards a motion was made by the gentleman from Will that the minority report be rejected; then the gentleman from Cook, Mr. Hamill, moved as an amendment that the minority report signed by the Cook county members

be substituted for the majority report, and the gentleman from Will, in speaking of it, spoke to the majority report and not to the minority report. So it is up to the House whether they want to get rid of the minority report and take up the matter of the majority report, or do they want to discuss the minority report as before the House at the present time.

Mr. BARR (Will). I would be very glad to withdraw my motion that the minority report be not adopted, assuming it carries with it the disposition of the substitute, if I am correct?

Mr. HAMILL (Cook). I shall not consent to withdrawing my motion.

Mr. RINAKER (Macoupin). Does the Chair rule that the only question for discussion now is not upon the merits of the plan of proportionate representation?

CHAIRMAN SHANAHAN. The motion before the House is the motion of the gentleman from Cook, Mr. Hamill, to substitute the minority report for that of the majority, and upon that question any member can be heard, and in his discussion he may discuss the merits of the minority and the majority reports.

Mr. RINAKER (Macoupin). That is what I thought. That is what I thought the gentleman from Schuyler was trying to do when the point of order was made. I understood that the gentleman from Schuyler was entitled to the floor.

CHAIRMAN SHANAHAN. He is, if he desires to talk on the merits of the reports.

Mr. JARMAN (Schuyler). One of the great delights of this Convention to the down State delegates has been their delightful association with the delegates from Chicago and Cook county. If I were forming a State legislature, I would be perfectly willing to have that State legislature constituted with the delegates represented in this Convention from Cook county, indeed, to compose all of the members of that legislature to govern the whole State. There has been such a delightful intercourse between the down State and Cook county delegates, that there has not been any friction in any way, and indeed, one of the great delights of this Convention further is that there has not been a suggestion of a partisan political question.

I say this because I hope that there will not be any animosity created by this question. I hope that we will look at it as statesmen, and that we will look at it as delegates to the Convention who love our State and who are willing to serve our country. It is a question that has to be faced. It is not a new question. It seems to be indicated here that it is an unheard of proposition that a city like Chicago or Cook county should be limited in the General Assembly. Why, it is not a new question, it is as old as our Government, it is as old as the self-government of the world. We are not doing anything strange, not doing anything unusual. We are not asking anything, as we conceive it, that is not for the best interests of Chicago and Cook county, itself, and the other counties of the State.

Now I shall address myself for a few moments and only a few moments, to the question whether or not Cook county should be limited in its representation in the General Assembly. This is the principal proposition, and this is the principal question.

I am not entirely satisfied with the proposition that has been introduced by the majority report here, and I do not suppose that a half a dozen members in this Convention, if they were writing this record themselves, would write it exactly as it is here. There has to be some concerted action, and we have to adhere to principles of government in the formulation of a Constitution. Now, this question is directly here and we must meet the question as other states have met it, whether or not it is right and just, and whether or not it is sound governmental action to limit a city like the city of Chicago and Cook county.

I suppose the burden is upon us on this side of the question to establish this point. I suppose the burden is on us to put into this record and before the people of this State that the basis of representation should be changed from what it is now, as to population.

I accept that challenge, as far as I am concerned because when I began to think of this question as a delegate to this Convention, the first question that arose in my mind, and the first question that arises in every man's mind, is: Are we justified in this upon any principle of Government, and are we justified in it upon any principle of right and wrong? We know the situation. Here is a great State like the State of Illinois. We know that the City of Chicago is a great city in one small locality. We know it is composed of three million people, and in a few years will be more than half of the population of the State of Illinois. We see that condition, and we know that if it is based on the basis of population, that the General Assembly, if not now, in a few years will be controlled in the House of Representatives and in the Senate by Chicago. We know by its majority of the electorate it will elect the Governor of this State. We know by its majority of the electorate it will elect every State officer of this State. That is, it is possible for them to do so.

Then the question arises whether or not under that condition we should put in the hands of one unit of the State that power, and is it for the best interests of the State?

I do not suppose what I shall say or what any other member of this Convention will say will change the vote of any delegate in this Convention.

The great object of this discussion, I take it, is to place upon this record what arguments or statements we may make to justify our respective positions. Therefore I have not hesitated to put in exact form my view of this matter.

The minority report in this committee provides that the General Assembly shall be made up on the basis of the population.

The majority report provides it shall be made up in the Senate on the basis of the electors, with nineteen members from the County of Cook.

As has been indicated, that is the proper proportion of Cook county at the present time with reference to the electorate. This State has not been apportioned since 1901, twenty years ago. It has been attempted time and time again, the Chicago delegates and the Cook county delegates in the General Assembly have insisted from time to time that there should be a reapportionment, and under the Constitution there probably ought to have been, but when you turn from the matter of population to the number of electors in Cook county, you have thirty-seven and eight-tenths per cent of the electors of the State, and thirty-seven and two-tenths per cent of the members of the General Assembly, and to my mind that is the true basis of representation in any government, and it is not an unusual representation.

The state of New York, you will remember, bases its representation upon population, exclusive of aliens. Other states base their representation upon a similar plan, so it is not a new plan. My judgment is it ought to be carried into the House of Representatives.

If Cook county now has a majority of the electors of the State, it not only can elect a majority of the General Assembly, but all the other State officers, and thereby completely dominate the political life and action of the whole State.

The question then presses upon us. Is this proper, wholesome and for the best interest of the State? We must answer this question not as partisans for one locality, for our selfish interests or in the spirit simply of domination; but we must answer it as statesmen, holding our mandate from the whole State and in the spirit of patriotic endeavor, to conserve the highest practical ideals of government, to make safe the rights of the people, and to further the stability, the prosperity and future development of our political, social and economic conditions. Determined to approach the question in this spirit, what is our duty?

It is a principle recognized by all representative governments and by all writers on our own political institutions that it is not safe, but a danger to be avoided, for one locality, for one municipality which represents a large

aggregation of congested population to control and dominate the destinies of any state.

The history of ancient states forcibly declares this danger. Ancient Rome and Greece were dominated by the cities of Rome and Athens. Our word "politics" comes from the Greek word "polis," meaning "city." While these great cities gave to the world a great code of laws, a sublime conception of moral principles, the highest development of art, the decline and fall of the state followed the oppression and exploitation of the people by those cities.

We, of a republic, proclaim that a King should not rule, because tyranny, inevitably, from the experience of mankind, follows the exercise of arbitrary political power by one man. This same result follows from arbitrary power in any unit of men.

We have a community of Chicago set over against a series of other communities. The rest of the State does not come with one single concentration of interests, and it is and must be a proper principle of constitutional distribution of representation that the diversified interests in the State should not be placed absolutely at the mercy of one single community.

This does not mean that the people of a large city are any better or worse than the people of the rural districts. Indeed I take it that the majority of the population of Chicago come from the rural districts. But it does mean that where there is a large aggregation of people there is a unit of community interest, a concentration of financial and economic power, a large element of social and political unrest, and with it all an intensity of action, all of which naturally and inevitably tend to the undue domination of the whole State; indeed it is so often a hard task for the large city to save its own political integrity.

The senators and representatives of no state can control the Congress of our Federal Government; and no city or community can now control the legislative body of any state, though in some of the states one city has a greater population than the balance of the state; this is notably true of New York, Delaware and Maryland.

In all of the states where this question or condition assumes any importance, the counties in which are large cities are limited in their representation in the legislative body. In addition to the states just named, this is true in the states of Alabama, Florida, Georgia, Connecticut, Rhode Island, Vermont, Pennsylvania, New Jersey, Missouri, Minnesota, Montana and other states.

Providence, Rhode Island, with one-half of the population of the state, has only one-fourth of the members of the House of Representatives, and one of thirty-nine Senators.

Duval County, Florida, with one-tenth of the population of the state in 1910 has only 2 out of 73 members of the House of Representatives; Fulton County, Georgia, with seven per cent of population of the state has only 3 out of 184 members of the House. Baltimore City, Maryland, with more than one-half of the population of the state, has 24 out of 102 members in the House, and 4 out of the 27 members in the Senate.

Hudson and Essex Counties of New Jersey, each with one-fifth of the population of the state, have each 1 of 21 Senators, as have 6 other counties of 100,000 each.

These counties with 8 members have four-fifths of the total population; while 13 other counties with one-fifth of the population, have 13 members of the Senate.

New York County has 35 of 150 members of the House, and 12 out of 50 in the Senate. In Pennsylvania no city or county is entitled to representation exceeding one-sixth of the total number of Senators. In Delaware, the city of Wilmington, with more than a majority of the population, has 5 members of the House out of 35, and 2 members of the Senate out of 17.

This enumeration might be carried much farther.

This principle, of course, is recognized in the Federal Government, in 2 Senators from each state; in the election of a President by electors from each state, and in that every state shall have a Congressman.

If the principle of limitation is accepted, then the question arises whether it shall be applied to both the Senate and the House, or only to one. This must depend upon the conditions in each particular case. In some states the limitation is as to the House, in other states as to both Houses.

There are only four states that I recall in which the conditions are analogous to those in the State of Illinois. These states are New York, Rhode Island, Delaware and Maryland. That is, where one city has a majority of the population of the state. In all of these as heretofore shown, there is a limitation in both Houses.

The principle in all these cases is that no locality, no political subdivision, should be permitted to dictate to all other political subdivisions of the state.

How has this question been looked upon by men who live in these large centers, how do statesmen look at it? I have indicated to you the limitation upon the General Assembly in the state of Maryland. I am very familiar with it in that state, and that condition has been in vogue there for some years, and I know of the conditions not only from the people outside of Baltimore, but statesmen living in Baltimore, and a Governor of that state said to me that it was conservative and should be in every state in the Union under similar conditions.

It has been said here before the committee, and I have heard it by different speakers, that it was a dangerous proposition, that the people would not understand it, that they would be rebellious and that there would be revolution. It has never been tested and never been attempted in any state that it was not successfully carried out and to the best interests of the state and the people themselves.

Now, as I said, the next question that arose to my mind was: How do statesmen look at this question? I turn to the New York debates of the convention of 1915, and I find there a discussion on this question by Mr. Seth Low.

You remember in 1894 under the constitutional provision that the state of New York adopted at that time, there was a limitation inserted in the Constitution limiting New York City and the county of New York, in their representation in the General Assembly as I have indicated before.

In 1915, when the Constitutional Convention of New York met, it was attempted by some of the delegates in that convention to abrogate that provision of the Constitution of 1894. In that convention there was a long debate, and the question was debated over many days, I think over several weeks, by those on either side. Mr. Seth Low, you will remember, was the mayor of the city of New York and a citizen of the city of New York, and I was interested in finding out what he said. I don't hesitate to accept anything I can in endeavoring to secure information on this question, and I consult the wisdom of wise men, I seek it out, as carefully as I can. Mr. Seth Low, being a citizen of the city of New York itself, certainly was not prejudiced by any opinion against the city, and here is what he said:

"I entered into the service of the city of Brooklyn on the 1st of January, 1882, and it is hardly an exaggeration, sir, to say that from that date to this in office and out of office I have been trying to serve the great community which we now call the city of New York, and I would rather that my tongue should cling to the roof of my mouth than in this assembly, discussing this great question, I should say anything unworthy—one who owes to the city of New York everything that he is. It seems to me, sir, that we have been discussing the symptoms of a question that goes very much deeper than anything that has been touched upon yet. I wonder if the members of the Convention realize that we are discussing a question, which, perhaps, has never been discussed in just this form in the history of the world. London is the heart of England, but London does not dominate England.

"Paris is the heart of France, but Paris does not dominate France. Berlin is the heart of Prussia and Germany, but Berlin does not dominate Germany."

Mr. HULL (Cook). Is it not true that if that great city and other cities in Germany had been properly represented, that the great war would not have come on, and it was due to the fact that the agricultural districts controlled Germany that the war did come on?

Mr. JARMAN (Schuyler). Just so. Why is that true? It proves that a unity of interests is always dangerous, whether the Junker class or the peasant class. No class should be permitted to rule in a government or any part of a government.

"Rome is the heart of Italy, but Rome does not dominate Italy. Petrograd is the heart of Russia, but Petrograd does not dominate Russia; neither does the city of New York dominate the United States, but it does happen in this sovereignty of the state of New York, if we follow the rule of numbers alone, the city of New York can dominate the sovereign state of New York. I was taught, Sir, in college, that there is no theory so perfect that in its application to human affairs it does not have to be modified, and I wonder whether we are not face to face at this moment with one of those theories that we must modify, if we are to act as statesmen.

"Now, Sir, if under the operation of economics and social laws the city of New York has gained population at the expense of the agricultural part of the state steadily decade by decade, do we want to add—is it statesman-like to add a forced draft to that movement by saying to the people, "If you will only go to New York, you can control not only the city of New York, but the state of New York?" It seems to me, Sir, that it is a situation where the college teaching which I quote has a great deal to say for itself, that the mere rule of representation by number in this instance ought to be modified in its application to human affairs."

On page 595, Mr. Low says:

"I am, as I have always been, a citizen of New York City. In this convention, my mandate comes from the state of New York, and I must vote as I think the interests of the great state of New York demands."

General Wickersham was in that convention, you know who he is, and you know his ability as a statesman, you know his ability as a lawyer. And General Wickersham in the debate on this question, Volume 1, page 647, quotes the following from a letter written by Joseph H. Choate, and published in the New York Tribune, shortly before the election of 1894, at which the Constitution was adopted:

"But the greatest virulence of Senator Hill's attack is directed against the rule laid down by the convention as to future apportionment, that no county shall have more than one-third of all the senators, and no two counties of the territory thereof as now organized, which are adjoining counties, or which are separated only by public waters, shall have more than one-half of all the senators.

"I deem this on the contrary one of the most reasonable, just and wholesome provisions ever introduced into an apportionment. It has no bearing upon party politics; it is not a question of party, but is a question of the just and reasonable relations that should exist between dense aggregations of populations in cities and the scattered inhabitants of rural districts, in the distribution of political power in the lawmaking branch of a representative government. Representative government is not, never has been, and cannot be based upon division of political power by exact equality of numbers. It is not possible to divide the state into fifty districts of 115,565 inhabitants each, or into 150 assembly districts of 38,255 each. Besides, territorial consideration, as a qualification of exact numeral distribution of population, have always been recognized as an essential element of apportionment, as the cardinal rule in respect to representation of counties already stated shows. Where a densely packed population is crowded into a great city, to which by reason thereof is allotted such a proportion of senators as

12 out of 50, and of assemblymen as 35 out of 150, it is unavoidable that by the aggregation of the force of numbers an immense advantage is obtained by that locality over other portions of the state that act separately by single individual representatives.

"New York County, for instance, with thirty-five assemblymen and twelve senators in the new Senate and Assembly, will exercise in legislation, by mere momentum of those numbers, a vast excess of power over the districts of sparse population having in the aggregate the same number of senators and representatives. It has, therefore, been adopted by all enlightened states as a cardinal rule of apportionment, necessary for the just preservation of the proper balance between the crowded urban districts and the scattered rural districts, that some consideration shall be paid to extent of territory as a qualification of the rule of numbers; nor has this ever been regarded as a departure from Republican or Democratic principles, or any invasion of the rule of the majority."

This limitation provision was placed first in the Constitution of New York in 1894, and when the Constitution came up at the election for adoption, there was an attack on that Constitution and on that provision. Senator Hill made serious attacks on it, and this letter of Mr. Choate was written in answer to them. It is what Joseph H. Choate said.

I don't know whether it is interesting to you as delegates for me to read these quotations, but I am after the meat in this matter, I am after all the wisdom of the greatest statesmen in this country. Indeed, it cannot be dry to any man who is interested in it, no matter from what source the information comes. General Wickersham, proceeding further in the debate, said:

"Mr. President, it seems to me that what I have quoted from Mr. Choate sums up, as well as words could put it, the history; there is the statement of the fact and the reason for the rule. It is no new thing. If my memory serves me right, in the Constitution which Thomas Jefferson drafted for the State of Virginia he provided that no amendment should be adopted to that Constitution except by the vote of a majority of the inhabitants in forty per cent of the counties. In other ways, in other Constitutions of other states, the same principle has been applied. It is a total misconception of constitutional law to suggest that government by the people, that republican government requires that every citizen shall have a vote for every official of the State, independently of population of district, independently of all considerations.

"And, Sir, perhaps it is because of the rule which has been observed in this State since the foundation, that every county should have at least one representative in the Assembly, that we enjoy that state of prosperity, that state of lawfulness and lawabidingness which has ever characterized the people of this Empire State. But, Sir, if it be true that some modification should be made in this principle, we have no such before us.

"We are challenged by the representatives of the minority to simply strike out from the Constitution this rule, based in part upon an unbroken history of two hundred and forty years, in part upon the apprehension of that very thing which has led other free states to provide similar methods to protect themselves, that we shall strike that out, without substituting therefor in its stead, repeal entirely, throw to the winds all lessons of experience and all apprehensions from conditions that are confronting us, and trust to a rule which never has operated under such conditions in the history of the world before us.

"I submit, Mr. President, that this body will embark upon no such task as that. I submit, Mr. President, that if the members of the minority could, by their votes strike out this provision from the Constitution, if the responsibility was theirs, we would hear a very different advocacy.

"I submit, Sir, that when the members of the Constitutional Convention of 1894, with the wisdom that characterized them, for they were able men,

put into the Constitution the provision which has not yet become operative, but which today seems more likely sometime to become operative than ever before, they were wise men, because the wise are they who foresee trouble before it comes and makes provisions before it is at their door."

Now, I want to call your attention to this fact. I have examined the debates of the New York Convention of 1894, and I find there arguments made by Mr. Joseph H. Choate and Elihu Root in that Convention. I wish that every member of this Convention could read that debate. It is most convincing, it is found in the debates of the 1894 Convention, Volume 4, pages 34 to 37. Nobody, it seems to me, can read the arguments of these men without being convinced it is right and just, and it is necessary not only for the protection of the State, but for the salvation of New York City itself in that limitation.

I have cited the practice and experience in these states and the opinion and judgment of these eminent statesmen to indicate the wisdom of others, which in all affairs are worthy of consideration.

It is not correct to say that the true and only basis of representation in government is population. In the great majority of the states the county is taken as the basis of representation, and about one-half of the states each county is entitled to at least one representative. When legislative districts are made up of counties it does not necessarily follow that a majority of the legislators are elected by a majority of the vote of the State. Counties are political subdivisions constituting a series of communities having their own individual and diversified interests, and are justly one of the basis for constitutional distribution of representation.

The question has been suggested: Is Chicago ready, and is it desired by its best citizens, to assume the domination of the State in its law making body? I have taken the position in the Committee on Municipal Government, "that every city should have home rule; but that no city should have the rule of the State"; that in municipal affairs as distinguished from matter of State concern, Chicago should have home rule. But the committee from Cook county has refused to accept this responsibility. The members of that committee from Cook county say, "No, we want it *subject to law*, subject to the control of the legislature." They say, "We want a limitation on our taxing power; we must have a limitation on the power and action of our governing body." They seem to say, and do in effect say, "We cannot safely rule ourselves, but we can rule the whole State."

The members of the Judiciary Committee from Cook county, and its distinguished citizens who have come here to address this Convention have insisted that the Constitution shall provide for the appointment of their judges, instead of their election; and they give as their reason, that by election they cannot obtain able and honest judges. Yet they insist, by the same electorate, to rule the whole State.

Very substantial citizens of Cook county have told me that it would be undesirable for the legislature of this State to be controlled by Cook county.

Mr. Seth Low, Mr. Joseph H. Choate, Mr. Elihu Root and General Wickersham, all citizens of the City of New York, were evidently of the opinion that it was not best even for New York City itself, for the city to dominate the whole State by a majority of the members of the legislature.

But we are told that Cook county, the great city of Chicago, pays the major part of the taxes of the State, and for this reason is entitled to the major part of the members of the legislature. The amount of property has never been taken as a basis of representation in any self-governing state. Take a further step and the argument brings you to the proposition that suffrage should be based upon the ownership of property. As an individual is granted no more political rights on account of wealth, so a community should not be granted the dominating influence in making the laws of the State because it happens to have the predominating wealth of the State.

Mr. HULL (Cook). Would it be based upon the part of the State where you live?

Mr. JARMAN (Schuyler). I don't understand your question.

Mr. HULL (Cook). Suffrage be based on the locality of the State in which you live?

Mr. JARMAN (Schuyler). Do you mean the men ought to vote where their residences are?

Mr. HULL (Cook). Yes.

Mr. JARMAN (Schuyler). Absolutely; as I have tried to demonstrate here, the very principle of government and the history of the states of the Nation and the history of self-government prove, that such a community of interests, is dangerous in controlling a state or nation. It is not because one individual is different from another, but because there is a community of interests. If the people of the down State were to move into Chicago and the people of Chicago were to move down State, the same principle would apply. It is a natural trend, resulting from the congested condition and unity of interests.

Mr. HULL (Cook). In the original proposal, the first sentence reads as follows: "Every citizen of the United States having resided in this State one year and the county ninety days and the election district thirty days next preceding the election, and being above the age of twenty-one years, shall be a qualified elector at such election." Should that be modified so that he shall have a less right to participate in this government because he lives in the City of Chicago? When this proposal comes out on the second reading, should we introduce an amendment to that proposal?

Mr. JARMAN (Schuyler). Of course not.

Mr. HULL (Cook). Why not, to be fairly consistent with your argument?

Mr. JARMAN (Schuyler). My argument is, placing individuals in a congested district, the absolute result is the exercise of arbitrary power and the danger to the government. It is not the individual voter. It is not the individual who is entitled to individual power to cast his suffrage, but it is an inevitable condition resulting from the concentration of these great powers. That is the principle upon which all statesmen argue this question, and it cannot be denied or disputed.

What I was going on to say about these taxes was:

It is often declared that of the 3,000,000 people of Chicago, only about 100,000 pay taxes; then by the same rule those are the people who should be represented, and these are the people who should do the voting.

By this argument you would marshal your host under the banner of the dollar mark, and with the arrogance of plutocracy demand the divine right to rule.

We know that you are wealthy. The rural communities have paid tribute to you commercially so long that you are getting to be a very rich city; we make you wealthy though we have not grown wealthy ourselves. We send you our grain, our livestock, our food, that you may live and grow fat in body and pocket, and we take the price you fix. We buy your merchandise and give you what you ask; you live in great houses, drive over wide boulevards; keep your money in vast vaults; wear bright jewels; are delighted by the great artists; educated in large universities, and preached to by the most eloquent divines. We admire your great men. We know that you are rich in all things and must be happy. We do not envy you; nor are we jealous; nor do we covet your vast possessions. We are content to live the simple life; to look upon the golden grain as it grows; to listen to the songs of the birds in the trees and in the flowers; to hear the voice of God in all nature; to sit by the flaming family fireside, happy with our favorite books. We are content to live by the sweat of our face. We love our State; we will serve our country; but we refuse to be ruled by any claimed superiority of plutocracy. (Applause.)

CHAIRMAN SHANAHAN. The question is upon the adoption of the motion of the gentleman from Cook, Mr. Hamill, that the minority report be substituted for that of the majority.

(Motion lost.)

CHAIRMAN SHANAHAN. The question now is on the adoption of the majority report.

Mr. BARR (Will). I move the adoption of the majority report.

CHAIRMAN SHANAHAN. Are you ready for the question?

Mr. DRYER (Montgomery). The first line in the third paragraph of section 7 of the majority report, the first line reads like this: "Each county shall be entitled to one representative in each House of Representatives." I would like to ask the chairman of the sub-committee if that should not read "in the House of Representatives"?

Mr. BARR (Will). I cannot hear you.

Mr. DRYER (Montgomery). "Shall be entitled to one representative in each House of Representatives."

Mr. RINAKER (Macoupin). That should be "in the House of Representatives."

Mr. DRYER (Montgomery). And it shall also be entitled to one other representative for each 50,000 of its population. It strikes me that should be for each additional 50,000 of the population.

Mr. BARR (Will). One for each 50,000.

Mr. DRYER (Montgomery). Two representatives for 100,000?

Mr. RINAKER (Macoupin). As printed in the report, there are three typographical errors which should be corrected if we are going according to this vote. The proposal, as introduced by the sub-committee and which is, of course, intended to be stated in the Constitution, should be amended, although I have not prepared a written amendment, but I will do so and hand it up to the desk. In the fourth paragraph on page 2 the word "the" should be corrected to read "its." "When a county contains two or more ratios of its territory." I move that change be made.

CHAIRMAN SHANAHAN. The gentleman from Macoupin moves that the word "the" in the fourth paragraph on page 2 shall be changed to the words "its."

(Motion adopted.)

Mr. RINAKER (Macoupin). Correcting the mistake to which the gentleman from Montgomery called attention, I move to strike out the word "each" in the first line of the third paragraph of section 7, and insert the word "the."

(Motion adopted.)

Mr. RINAKER (Macoupin). In the next to the last paragraph, the fourth line from the last, in that paragraph of that page, the word "contained," as it is printed it reads "Such districts shall be formed of compact and contiguous territory bounded by precinct lines, and contained as nearly as practicable." I move to strike out the word "contained" and insert the word "contain."

(Motion adopted.)

CHAIRMAN SHANAHAN. The question is upon the adoption of the motion of the gentleman from Will.

Mr. WILSON (Cook). I was a member of a State Committee convened at the call of Governor Lowden. It so happens I was called very early in the deliberation of a body, the name of which I forget, I think it was entitled "Committee on Constitutional Convention." Their deliberations went on during the early part of last year and continued through the summer. I was asked to be chairman of one of the committees to promote the work of getting out the vote of the people of the State for the purpose of having this Convention.

Notwithstanding certain occurrences in the recent election, it seems that money is required at times to promote elections, so there was a Finance Committee organized, of which I was chairman. Perhaps you know when a man is chairman of a committee he sometimes does the work, and the other members sometimes are honorary members, sometimes called upon,

but very often not called upon. During the deliberations, Mr. Silas Strawn and myself called a meeting at the Midday Club in June of last year, and the question of financing the election was up for discussion. We invited numerous men, perhaps fifty or sixty, to a dinner. Many of the good men in Chicago, whom I might be glad to call by name, if necessary, declined to come. They felt that a Constitutional Convention would be dangerous. They had contributed to bring out the vote for the proposed constitutional amendment of 1916, but felt that they could not contribute to bring out the vote for this Convention, because of the dangers which might arise. They did not name to me what those dangers were, so I do not know what was in their minds.

I do know when the activities commenced, I received personal messages from each one of those men coming to the front with their good checks, as usual.

It might be well to divert, speaking of money that is used in elections, to say it is always necessary to have a machinery at an election. We collected enough money to get out the votes. I believe it was all collected in Chicago. After the vote was carried and the accounts had been cast up, which took about sixty days, we paid back to the contributors forty per cent of the amount which they had contributed. All during that time, I never heard a word about the curtailing of the representation of Chicago in the legislature.

I have been here for some time, for some months, and I have been delighted with the new friends I have made. I have felt a great delight in meeting every one of you gentlemen from down State. I have heard it said that no political body had ever convened of better calibre or of more open minds than this one. I have believed it is true, but I am going to make some statements that are also true.

I had not been here a week, gentlemen, before I heard that the gentlemen from down State, who are delegates to this Convention, were determined to curtail the representation of Chicago in the legislature. It came to me week after week, over and over again, until I became convinced that it is true.

Now, gentlemen, I do not believe it ought to be an issue.

Delegate Jarman has made a fine speech, and I think it will read as well as it sounded.

As I have gone back and forth from Springfield to Chicago and vice versa, I have become convinced in my mind that the down State, so-called, perhaps has some reason for fearing domination by Chicago or Cook county. The fear may be justified, and it may not. It has fallen to my lot in times past to come here to Springfield to ask for legislation for Chicago. I have never known it to be refused. It has come after some contest. In one case we presented a bill to the legislature, I forget the number of it, and had to come back again two years later to get our bill, but we got it. I do not know of any instance where a just measure has been refused by the members of the legislature, which has been dominated by the so-called down State element.

In our efforts to obtain legislation for Chicago, a united Chicago, we have nearly always had the united down State, and I hope Chicago and down State will always remain united.

There is a way that this can be done, but it cannot be by the adoption, in my judgment, of this majority report.

As I have reported what I have said to you of the activities of the delegates of the so-called down State to friends of mine in Chicago, the reply has been, "If Chicago is going to be deprived of its representation, as it has had it in the past, we shall take no further interest in the passage of the Constitution."

Now, gentlemen, I have frankly tried, and I have made earnest efforts to try and review the situation as I see it. I have tried to get these people, good people as they are, to see that there were two sides to this question. In some cases I have succeeded, not to bringing them around to your side, not that there should be a curtailment of Chicago's representation in both houses, but to get them to see there was another view.

Now, my position personally, I am very sorry to say, will be somewhat like that of the chairman of this committee. I had some misgivings about a Constitutional Convention myself. I had it drilled into me by people who sent me checks, people whom I respect, and if I must say it, in three different cases they sent me those checks more out of personal regard than from their belief that it was necessary to have a Constitutional Convention. I do not say this with any idea of having you feel that I want to be imperious or that I want to make a personal issue of this thing and that I feel that I must have my way, but I have this conviction, that I am responsible to quite a number of people who contributed for the necessary expense to bring the vote out for this Convention; I know their feelings. They may be right and they may be wrong, but their feeling is that a proposition like that of the majority report must not prevail, as far as they are concerned, and I should have to stand with them, gentlemen. I should have to feel that I was of no further use to this Convention as a representative from the First District of Chicago.

I cannot say any more. I thank you for your great respect, and I shall always have the greatest respect for you.

Mr. QUINN (Peoria). It is not my intention to take up much of your time in the discussion of this proposition. I realize I am in no position to enlighten you on this subject. You have thought of it and read of it and discussed it ever since you came here as members of this Convention, and there seems to me to be a pretty well understood program and apparently sufficient votes to carry it out.

I realize, no matter what I might say on the proposition, I will be unable to change a vote or in any manner affect the results of your deliberations.

I refrained from voting on the last question put to this body, because I felt that I did not favor either the majority or the minority reports, as submitted here. I am not attempting to address you as a member of any political party. I do not care what the result may be of this legislation in so far as it may affect the destiny of politicians or political parites, but I do believe in the representative form of government, and I do not believe in the doctrine that those who pay the expenses of government should not have a voice in the government. And I do believe, that we, as American citizens, should still be opposed to the doctrine of taxation without representation.

There are objections to the present plan of electing members to the General Assembly. I believe the people of the State are not in favor any longer of the system of plumping, by which candidates can be elected through the efforts of their friends and their ability to concentrate their votes. I am not in favor of that way of securing what I designate proportionate representation. The term proportionate representation has been bandied around here, and the suggestion advanced that this majority report provides for proportionate representation.

As I view it, this majority report does not provide for proportionate or minority representation at all, but it provides that a minority of the people of the State of Illinois shall control a majority of the people of the State of Illinois. It is minority control. The idea of proportionate representation is taking deep root in the minds of the people.

In great industrial centers, schemes are being constantly provided by which the employers of labor seek to give proportionate representation to their employees and consider with them the problems which confront both capital and labor.

In representing your constituents the other day, a large number of you favored a system by which a minority of the stockholders in a corporation might be allowed to vote proportionately as to their stock, so that stock could be apportioned among numbers of the directors to be elected, and it was declared that was a fair plan. It was declared that such a scheme gave proportionate representation, for it recognizes the rights of the minority stockholder. If it was proper and just that such legislation should be con-

tinued in Illinois it can only be defended because it guaranteed minority representation. The security of this government rests in respecting the arguments and views of other citizens, and the legislative halls and conventions of this country should continue to pay heed to the views even of a small minority, and the proposition here is that minority representation shall be destroyed, that larger communities shall be limited in the legislature, and that small communities shall have a disproportionately larger representation in the making of the laws for all the people.

Under this plan suggested by the majority report, the County of Schuyler, which in the census of 1900 reported a population of about 14,000 people, would have six times the voting power in the Assembly than the County of Kane would have. Kane, with a population of 91,000 would be entitled, as I read this proposal, to possibly two members of the House, is that it?

Mr. BARR (Will). Two in the House.

Mr. QUINN (Peoria). Yes. Calhoun, with 8,000, as against Kane's 91,000, would have one member of the Legislature; Brown County, with 10,000, would have one member of the Legislature; Effingham county, with 10,000, would have one member of the House; Hardin, one member; Kendall, one member; Putnam, with 7,000, one member; Scott, one member with 10,000; Stark, the same; Pope, 11,000, one member; Warren, 12,000, one member; Schuyler, one member, with 14,000

This group I have just reviewed would have six members of the House to Kane county's two members. It is disproportionate. It is not proportionate representation. It is not the destruction of the autocratic rule; it is not the destruction of an autocratic form of government, but it is the building up and the installation of a king here, of a king by disproportionate representation properly designated as King Minority.

Now, gentlemen, I appreciate, as I said before, that some of us feel that we ought to restrict Chicago's representation in the General Assembly. Our form of government provides for restriction in the Senate, and most states adopt the same plan. In my judgment it is all right to have a check, possibly, on counties or districts, in the Senate, but not in this popular branch of government, in the House of Representatives. Why shouldn't you be satisfied if the check is on the other side, to prevent legislation that is feared by the rural communities of this State? Why control both? Why cut off the representation on the theory that you fear vicious legislation coming from Chicago? Why limit the representation on both sides of this General Assembly? You have ample protection if you limit it in the Senate, according to districts or counties. In the House, let the people come in and let the popular form of government be carried out where minorities may be heard.

I am not talking of the political party that is in the minority, but of the great laboring classes of this country who want to be heard. They have a right to come in here, in the minority, if you please, and express their views, and, as long as they are honest men, even the Socialists have a right to be heard and to get proper representation. Even the city of Chicago has a right to be heard, notwithstanding the fact that it may boast of a large foreign population.

I care not for your party politics in Chicago, nor your likes or dislikes for those who may be in power. The citizens of Chicago represent one of the greatest communities in the world; in industry, in finance, in enterprises of all kinds, in intelligence and in patriotism, and the flag that floats over the citizens of the State of Illinois should float over Chicago and over every citizen thereof, affording them equal protection of the law and an equal right to speak with every other citizen of the State, and also an equal right to be as fully represented as every other citizen of the State.

It is unfair. It is cowardly. It is discourteous and it is beneath the dignity of the people of the State of Illinois to say that they fear from the hands of any community legislation that will be detrimental to the State of Illinois.

We hear a lot about Home Rule. It is twaddle. It is tommyrot. The same argument you advance, when asserting that you are in favor of Home Rule for the cities, conveys the idea you are willing to give Home Rule in the largest extent possible to the cities of the State. Carried to a logical conclusion, it means that in giving your cities Home Rule, they should be limited in this legislature, so they cannot transgress on the rights of the rural districts. What right have you to talk Home Rule to your cities, and then prevent those cities coming in here demanding equal representation with the rural communities? You seem to be willing to allow them to ruin themselves as long as the State at large is protected from their influence. Of course men disagree upon this proposition.

I have great respect for the gentleman in New York coming from Brooklyn and the city of New York who favored restricting the power of New York. Each and every one of them, however, was in a political minority in New York, and each and every one of them in my judgment was actuated by party politics, and a desire as party politicians to circumvent and prevent Democratic New York from controlling the state. That is what influenced your Root and Choate and your Low. It was party politics. The desire to control and succeed through the party machinery to the power and influence that comes when they can defeat and control their opponents.

Now, gentlemen, I believe it is only fair to continue the representative form of government that we have had in this State. If you desire to limit, through any fear of Chicago's influence, its membership in the General Assembly, why not be fair enough, decent enough, manly enough and courageous enough to stop when you limit their representation across the hall in the Senate?

Gentlemen, I am opposed to these two measures, because they shut out the minority; because they seek to deprive minorities of coming in here and speaking for their wrongs, and I am opposed to giving small counties like Schuyler, Putnam, Hardin, Calhoun and all these, equal representation with counties having 50,000 population. It is unfair to these other counties.

Gentlemen, my judgment is if you do place this limitation, as you propose to do, you will do a wrong. Take my own county of Peoria, under our present population we would be entitled to at least three members of the House. The legislature will have to divide the county into three legislative districts. There will never be in the history of Peoria county a farmer from that county in the legislature. Absolutely and physically impossible. The City of Peoria will control and dominate the situation, and I am satisfied that in the larger counties in this State where there are large industrial centers, you, who call yourselves farmers, will be without representation, unless you get it through those who are elected from the cities. And if you drive us to a proposition of making classes supreme, you will have classes in this legislature and the big class will be made up from the industrial centers, Chicago, Peoria, Kane County, East St. Louis and Rockford, and these other large communities, and the lobby and caucus will strangle your agriculture measures to death. You are building up classes and you are inviting class legislation. I believe it will bring ruin to the very interests you are trying to protect.

At the proper time, I propose to introduce an amendment to this section, providing for minority representation, providing that the legislature, by the enactment providing for subdividing these counties into legislative districts, shall restrict the election so as to make it impossible to elect all of the members of the House from one party or group of people.

I propose that because I believe the minorities have a right to be represented; I propose that because I believe that the representative form of government is the best, and the government cannot be democratic in form that is made up purely of a class or controlled by a class.

I am opposed to this majority report, gentlemen, for the reasons I have stated.

Mr. SCANLAN (LaSalle). As a member of this convention from the down State part of the State, representing my county, the county of LaSalle, a county constituting a single senatorial district, under the present Constitution, I want to tell the delegates I am absolutely opposed to this majority report. I voted against the minority report, and I am going to vote against this majority report, and the only way you will ever get anywhere on this question is to defeat both reports and get together then on something that is fair. I believe, and have believed before the primaries and before the election, all along, that something should be done towards restricting in some way Chicago's representation. I did not insist that it had to be in both Houses, I don't know as it has to be in both Houses. I think you may work out a proper restriction, but the down State members of this Convention since coming here and feeling their power, and some of these districts comprised of four or five or six or more counties, have seen an opportunity to create for every county a member of the Legislature. I am against county representation. It is a farce. It is not right to say that each county, no matter how it has decreased in population, is going in the future to send a man to this legislature. Take the county of Putnam, consisting of four and a half townships, and 7,000 people, with a falling off in population each year. It is going to have a representative in this House, and in my county you are going to give us two. In my county it takes 47,000 people to have a representative in the legislature, whereas in Putnam county across the line with 7,000 people they can have a representative for that 7,000 people.

I do not think I would fairly and honestly represent the interests of my people in my county to vote for any such scheme as this. I do not care where it comes from or who wants it or what particular interest they represent or claim to represent.

The thing to do here now and today is to defeat the majority report, as we defeated the minority report, and then get together on some fair plan. Let us defeat it and drive out of the minds of these men the idea of a chance to put into the Constitution county representation. Let us show them they cannot do it, and as soon as we have done that they will give up their idea. The people of my county are willing to be represented by their ratio, whatever the ratio is. If, due to the lack of growth of population, we lose a member, we are ready to lose it, if we have not grown as fast as the other parts of the State. We are opposed to an amendment which puts into this Constitution a member for Putnam county, with 7,000 population. Putnam is not the only county; the others go up to eight, ten, twelve and fourteen thousand. The census which has been partly reported shows that most of these counties have fallen off in population. When your returns are in, I think you will find that half the counties in the State of Illinois have officially fallen off in population. In our own county is shown a twenty-five per cent reduction in the rural districts, and if it was not for the growth of the cities, it would show a loss with us.

I think that is the plan to follow, and I am opposed to the majority report. I do not think it can honestly be defended. You say we are going to deprive Chicago of proper representation, because it is too big, and then you turn around and say to Putnam county, we are going to give it to you because you are small; you are a county and have 7,000 people, though you may only have 5,000 people ten years from now.

But let us go back to the plan of districts according to population. Let us take in Putnam; there has been some small complaint because the small counties have not been represented in this house in recent years. I know that is true, but why don't the men who urge that have the nerve to come out on the floor in this convention and tell the real reason for that condition? It is true because of your primary law. That is why it is true. Before you had a primary law they gave the little counties representation, and there never was any complaint, but since you put a primary law on the books, the larger counties dominate the district.

I know instances in this legislature, in one city in the southern part of Illinois, in a district at present of three counties; they had all of their representatives from one city, and it was a small city at that, because the cities govern the primary law. That is the trouble; wipe out your primary law and you will get your representation. I am against the majority report.

Mr. DUNLAP (Champaign). It is suggested that we defeat the majority report and get a plan that is fair and square. Will the gentleman tell us what he considers a fair plan?

Mr. SCANLAN (LaSalle). I will say this to Senator Dunlap: He has been a member of the General Assembly for several years, so that you know and I know that every member that comes to the legislature (and I think it is true of every delegate in this Convention) is going to do for his territory that which he thinks is best and most proper. Your proposition is to send these Chicago men home defeated absolutely and totally, with no chance whatever to save their faces anywhere along the line. Then you expect Chicago to turn in and adopt the Constitution. Let us put it on some kind of a basis where they are not sent home entirely defeated; let us give them something.

Mr. DUNLAP (Champaign). Is that a fair basis; that is what I want to know?

Mr. SCANLAN (LaSalle). We will be able to determine that when we have defeated the majority report, and the county representation men. When you say to them that they are not going to get county representation, then we will show them what they will get.

Mr. DUNLAP (Champaign). What will you get?

Mr. SCANLAN (LaSalle). We are willing to take just what we can get by ratio, but we are not ready to take this majority report, when a county the size of Putnam is going to get representation with 7,000 population.

Mr. SUTHERLAND (Cook). This is one of the perplexing and trying questions we are here to settle, and I am glad to hear the voice of some of my good down State friends, suggesting that it can be settled only on lines of reasonable compromise. I cannot support this majority report and look myself in the face down here, let alone go back to the people of my district and the people of my city, or meet anywhere in the State any citizen of Illinois and support this majority report.

I think if the delegates to the Convention will scrutinize this report they will come to that conclusion for themselves. In the first place, considering one point, apart from apportionment, it provides for a house of representatives at the outside composed of at least 183 members. Mr. Chairman, that is too large a house to be a purely deliberative assembly. It means that a house of that size will have a small clique or group controlling and moulding the course of legislation. That is distinctly undesirable. And further than that, on the particularly great question of apportionment, I cannot support such a report as that. Not only does it limit us in the senate but also in the house to our present representation. It starts out by giving us less representation than we now have, and never, no matter how great the City of Chicago and the County of Cook may grow—and Mr. Chairman, I represent in part both the City of Chicago and the County of Cook outside of the City of Chicago—no matter how large Cook may grow we shall never have our proportionate representation in either branch of the General Assembly. In other words, Mr. Chairman, in attempting to defend themselves from the control by majority in one small locality, the gentlemen who have framed this report, through lack of consideration, I doubt not, have gone to the other extreme, and have provided the possibility that the majority of the commonwealth of Illinois may be dominated by a minority occupying the greater geographical territory of the State.

Mr. Chairman, that is unfair, and I could not go back to the City of Chicago, to the County of Cook, and say that I had supported such a report, and, Mr. Chairman, more than that, if such a report becomes a part of the proposed new Constitution, without a bit of organization, without a word of inciting from the delegates in this Convention, in the County of Cook the people en masse will arise and go to the polls on the day that it is submitted

and an overwhelming majority will be piled up in Cook county which I do not believe all of the work you can do down State will overcome.

So, Mr. Chairman, in my judgment it would be useless to continue the work of this Convention if the report were adopted. Furthermore, I think I would be recreant to my duty if such an unfair proposition, so utterly opposed to representative government, was to be thrust into the Constitution in a moment of ill-consideration. I think it would be idle for me, and improper for me, to continue further in the deliberations of this body; but, Mr. Chairman, there is another point, and a dangerous one: you are depriving the industrial centers of the State of Illinois, all the other populous centers, not only Cook county but every other county which has an industrial center or hopes to have one, of proper representation in either one of the houses of the General Assembly.

Now, this is a Convention that is conservative. It is made up of men who have the thought that the ship of state can go along on even keel, not careening to one side or the other. There is no spirit of radicalism in this Convention, but, gentlemen, this very proposition which has been seriously urged by some of the gentlemen as having elements of conservatism in it, is a breeding place, in my judgment, for radicalism.

Every time that a measure that is dear to labor or dear to some group in the centers of population is defeated, the agitators will raise the cry, "What can you expect from the form of government you have in Illinois? What can you expect when you are denied your proportionate representation in the law-making bodies of the State of Illinois? There is nothing for you to do but to change your form of government, even though it be by revolution." And, Mr. Chairman, under those circumstances, with this measure in the Constitution, that argument would go far, and it would go farther even than the mere group to whom it was first addressed.

In my judgment, Mr. Chairman, this proposition is a torch at the base of every pile of radical tinder in every industrial community in the State of Illinois. It is like putting dynamite into the foundations of your fabric of State government, Mr. Chairman, and I want at this time to utter a solemn warning against putting this in. Mr. Chairman, in a body that has met for the first time in a half century, we stand at the hour of crisis; I never dreamed that I could have in my life such an honor as to sit in an assembly of this kind, or have so much pleasure as I have derived from association with the delegates who make up this Convention; men of ability and learning, men representative of every group of the territory of the State of Illinois. We all feel—I know it from contact with my fellow-delegates—that we are here as responsible men and that we have a duty to perform, not only to the people of our districts, but to the people of the whole State of Illinois, and I have been glad because of the tone that has been assumed in presenting even this extreme majority report by the delegate from Will and the delegate from Schuyler. I feel whatever error there has been in this report has been an error of judgment, and not of intent to do an injurious and a bad thing, and, Mr. Chairman, I appeal to the delegates from down State to help us form a Constitution which will have the support of the people of Illinois, not only in ratification, but one that will have their loyal support, even as the flag will have their loyal support in the lives they live under the new Constitution. Mr. Chairman, this cannot be done by supporting the majority report, and that majority report, in my judgment, must be defeated if we are going to accomplish the purpose for which the people of Illinois have sent us hither.

Mr. TRAUTMANN (St. Clair). I move you, Mr. Chairman, that the Committee of the Whole do now recess until two o'clock.

Whereupon the Committee of the Whole took a recess until 2:00 o'clock p. m. of the same day.

2:00 o'CLOCK P. M.

The Committee of the Whole met pursuant to recess.

(Chairman Shanahan in the chair.)

CHAIRMAN SHANAHAN. The question is on the adoption of the motion of the gentleman from Will to adopt the majority report.

Mr. CUTTING (Cook). Gentlemen of the Convention: A remark has been made that it was hoped in this discussion there would be no acrimonious debate. I am in accord with that proposition, and I trust that if, in the heat of debate, I should happen to say something that somebody may think I should not, I want at the beginning to say that it is not intended to be offensive to those who differ from me on this great question. I want to assure you that there is nothing personal in what is being said.

The delegation from Cook county stands here today on the apportionment of 1900. There has been no reapportionment of this State since that time, and therefore the Cook county delegates here, under the Constitution of 1870, are at least six short, and probably nine short of what they are entitled to be under that Constitution. Hence, their voting strength is limited to that extent. There has been no apportionment since 1900, and the reason for that is known to every member of this Convention.

I came here in the first instance knowing perfectly well that the limitation of Chicago in some form would be brought up, and while I believed then and believe now, much more strongly than I did then, that the fears of the down State people of Chicago's domination are unfounded and a mere chimera and a figment of the brain, not founded on any reasonable hypothesis, yet I was willing to talk on that proposition, and if somebody had suggested or if there was something before this house on certain lines which would not only protect Chicago from down State—and it seems there is no difficulty in the down State getting together when they are after Chicago—as well as protecting the down State against Chicago, I could talk and understand and act; but that is not the proposition that we have before us.

We have before us a proposition which not only limits Chicago in one house, but in both houses. I don't mean Chicago, I mean Cook county. It limits in both houses, and it limits permanently. Chicago is to pay the penalty, apparently, of having been growing in the last fifty years, forward instead of backward.

If Chicago had only melted away into a reminiscence, if it had stewed in the juice of its own inactivity, if you please, it would be allowed perfect representation. But it has been growing. It is a great city and it contains the most diverse elements that can be found anywhere in the State of Illinois. It is not a homogenous community; it does not consist of the same sort of people throughout its length and breadth. It never was united, except as I have had occasion to say to a delegate in the last five minutes, when pushed into a corner and made to fight as it were, for its political life; then it does unite. There is nothing that will unite a community like adversity. There is nothing that will unite a people like a common calamity. There is nothing that will bring people together like the same soul. But left alone, left to work out their salvation according to their own situation, you will never see any community of the size of Chicago agreeing on anything on earth, and if the people of the State of Illinois desire that Chicago shall become what might be called a united community, let this majority report be adopted, and it will be a unit. Then its legislative power, instead of being divided into parties, will become, gentlemen, an instrument to try and get back one of the rights of which it believes it is being deprived by a proposition of this character.

You know well enough when a man's home, when his home life, when the things he considers dear to him, are attacked, and about to be taken away, he and his neighbors, even if he never knew them before, will get together and fight the common enemy. If the enemy insists on being an enemy he will have to be so treated.

But, God forbid! that it can be said of any district in the State of Illinois that it has fallen to such state that the rules which apply to other portions of the State do not apply to it; that its power is to be limited because in fact it is populous, because it is prosperous. Then, indeed, we are making for class legislation and we are depriving American citizens of that which ought to be, if it is not, the most desirable thing this world produces.

Our forefathers fought against taxation without representation; but somebody has said that is a mere figure of speech, that it is some novel thought that has been injected into our history, in order to make our children feel that there was really something to make us desire to sever our relations with Great Britain, that it is a glittering generality, this idea of majority rule, some political fetish which the people bow down to and worship, and it hasn't anything behind it which is worth while, but must give way to particular circumstances and conditions, so that there will not only be no majority rule and no taxation without representation, but there shall be minority rule, and that there shall be taxation without adequate representation. Do you desire to foster this idea?

We talked here some time ago and I used that word "adequate." Some of my friends have considerable difficulty with it. I want to say to you that there is no difference in principle between "inadequate" representation and no representation at all. I say there is no difference in principle between the two things.

If we are entitled to representation at all, we are entitled to representation like everybody else. If, perchance, our crimes, if what we have done and what we have said are so obnoxious to the body politic of this State, that our representation must be cut, if we must be put into a position where we can never assert ourselves according to the number of people we represent, then, indeed, why not take it all away? Why not do away with any representation from the northeast corner of this State, which is populous Cook county? Why do you let them in here? Why bother with them? They have no rights, apparently, to any particular thing. It is true, in this Constitution you can put anything you please. The Supreme Court of the United States has just said so.

Don't stop, gentlemen, if you are going to do this thing; don't stop by simply cutting our representation away below where it belongs on population, but simply snuff it all out!

It may be you want some sort of opposition in order to keep your own people together, for you frequently find that if you do not have a common enemy upon whom to heap your scorn, you have trouble in keeping from fighting amongst yourselves.

There are some things which I always thought fundamental; that this proposal violates more than anything I ever saw. Let us see if there are any fundamental principles underlying this question. I listened to the able, learned and brilliant address of the gentleman who spoke on the other side this morning, and many of the things he said, in fact all of the things he said, I agreed to, but his conclusion I did not agree to at all. I will endeavor to tell you why I did not.

But, first, let us see what has been the course of government in the matter of this apportionment question, from the time it was instituted in these United States of America. I am perfectly well aware of the fact that the Federal Government is organized on a plan which has one house based upon territorial representation, and the other house based on the representation of individual population. It has worked well, but the vast difference between representation by counties, which are mere subdivisions of the state and which are creatures of the state and can be changed any time by the state and sovereign states, I think you will readily see.

That is why there has never been any outcry against the unequal representation of Nevada, as compared with New York, in the Senate. The Senators of New York are elected by ten million people, and the Senators of Nevada by less than one hundred thousand, yet such is the popular note of the house where the people can have their say, where they can elect their

representatives and where the popular ideas can be sent on to the Senate for their consideration, that the two things have worked together for a splendid success in the years gone by.

But it has never been the policy of the states to any great extent to take any other theory of apportionment than the one which comes from the foundation of the government, that every man is equal to every other man within its borders. There are some things that I want to read that I think are fair on this question. There are a few things which I think ought to be remembered, yet they may strike your minds differently from the way they strike mine.

Let us look for a moment at what has been the course of governmental progress along the lines of apportionment. This great Northwest Territory of ours was ceded to the United States of America by Virginia, as we all know, in the Ordinance of 1787. Do not suppose that I have for a moment made the mistake that some newspapers make, that that ordinance is binding on us. I do not claim that for a minute. It is not, because when we adopted our Constitution, we abrogated it. I am using it as a historical incident to show how this idea was developed in our states.

I quote: "It is hereby ordained and declared by the authority aforesaid that the following articles shall be considered as articles of compact between the original states and the people and state in the said territory and forever remain unalterable, unless by common consent."

They thought they could do that. If they could, we would not be here talking about it. But this Convention can alter it. Those things which the people thought at that time were fundamental. So they stated in 1787.

"The inhabitants of said territory shall always be entitled to the benefits of the writ of habeas corpus and of the trial by jury; of a proportionate representation of the people in the legislature and of judicial proceedings according to the course of the common law."

Every one of those things has remained intact from that date to this, and now for the first time we propose to make an innovation upon these inherent fundamentals of government in the State of Illinois, and change that which the fathers thought was really foundation matter for the government which we all believe in.

Let us see what they are. The writ of habeas corpus; we always have had it and have it now. You would consider this Constitution as absolutely lacking in one of its essentials if you left that out. Right of trial by jury; nobody would want to change that or take it away from the commonwealth. Proportionate representation in the legislature; yes, we are going to change that, we are going to take it out. I have not heard any reason why that fundamental principle is not as sound today as it ever was. I have heard specious argument which has attempted to get around it, but you can argue from now until the sun ceases to rise and you will never satisfy your inmost soul that one man in one county is worth so much and another man in another county politically is worth three times as much. If you do, you must confess absolutely the failure of democracy and the rule of majority. You must say to yourselves, "It is true we have always talked about rule of the people, and we believe in the rule of the people, provided they do not live in Cook county. We are perfectly satisfied that the people of Illinois are sovereign people and that their will shall prevail, but we shall so arrange it that the people of Cook county shall not have proportionate legislative power, we will get it and use it ourselves."

I have been down here and I have said to myself and my friends many times, I really do not blame the down State people for fearing the sort of people that we sometimes send to the legislature. We send a great many most excellent men here, men I am proud of and that I will match against those produced anywhere within the confines of Illinois, but we do send some people of whom I am not proud. The situation provoked me to make that statement, and I thought perhaps it was well enough to stick by, for a time, until one day I happened to run across a legislator from down State,

and I said to him, "How is it that you, a member of the legislature in 1911 and '12; how is it you did not reapportion the State of Illinois as the Constitution required you to? You took oath when you became a legislator that you would support the Constitution of the United States and the Constitution of the State of Illinois." "Why," said he, "if we had done that we should have had to give up two senators and six representatives from down State to Chicago and you could not expect us to do that." I cannot argue with a man of that sort of conscience. I know no way of overcoming a man who is satisfied with such a reasoning. The Constitution required it, his oath required it, every consideration that ought to affect a man politically required it, but because the effect of it was that one section of the State would get what it was entitled to and another section of the State could not keep what it was not entitled to, was the reason for his action.

The Constitution of 1818 provides, Article II, paragraph 5, "The number of senators and representatives shall * * * be fixed by the General Assembly and apportioned among the several counties and districts to be established by law, according to the number of white inhabitants."

The Constitution of 1848, Article III, paragraph 6, provides, "The Senate shall consist of twenty-five members and the House of Representatives shall consist of seventy-five members, * * * to be apportioned among the several counties according to the number of white inhabitants."

If Illinois were a southern state, and if the sentiment of the people of this State required that a certain class of people there, who were distinguishable by color, should not vote, there are many very wonderful devices which man has perfected to bring about that condition in spite of Constitutional amendments and prohibitions.

The great bulk of the nation, smarting under the proposition that certain portions of the United State had representation in the lower house of Congress by reason of persons who were not eligible to vote, yet who were counted in the apportionment passed the Fourteenth Amendment, and that Fourteenth Amendment, while it has never been, I believe, enforced, is nevertheless a part of the supreme law of the land, and applied, gentlemen, to the condition which you would bring about by adopting this majority report, would nullify your act.

Let us see if it would not. Of course you lawyers all know it in a way, but let us read it again:

"No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any state deprive any person of life, liberty or property without the due process of law * * * but when the right to vote at any election for the choice of electors for President and Vice President of the United States, representatives in Congress, the executive and judicial officers of a state, or members of the legislature thereof, is denied to any of the male inhabitants of such state being twenty-one years of age and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein should be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such state."

Not only denied, but in no way abridged. If all the colored people of Alabama were penned in one corner of the state, although they might number as many as all of the rest of the white people living in the balance of the state, and it should be said by the Constitution of that state or the legislature thereof that it took 200,000 of those people in one corner of that state to elect a legislator and it only took 50,000 of the balance of the state to elect a legislator, do you think the courts, if the matter was ever brought before them would fail to find that their rights, if not destroyed, were at least abridged by such a device? There can be only one answer. The only way in which parties can be deprived of just representation under this Fourteenth Amendment to the Constitution of the United States is by participation in rebellion.

Have we rebelled? No, we are here claiming that we are citizens of the State of Illinois and proud of that citizenship, and insisting when we are such citizens that we shall be treated like other citizens and no differently.

Participation in rebellion or other crimes is said to be the only excuse. I know of no crime of which we have been accused, except, so far as I understand the argument, we are closely associated as neighbors. If we could only be separated, spread out somewhere over a lot of land, the same number of us, we would be all right, but because we live in apartment buildings, because our houses are not separated by as large lots as they are downstate, because we have all sorts of people and all kinds and descriptions of individuals who are members of the body politic, we must be in a sense disfranchised. Take the Senate provision, if you please, of this bill. It adopts the apportionment of 1900, and it gives us 19 Senators, just as now, and the downstate takes 32.

That apportionment was fair when it was made twenty years ago, but that is to be the ironbound rule to which there shall be no exception for an indefinite future. It is the straight-jacket in which shall be placed the community which shall have grown as it has grown in the past, which shall have hundreds of thousands more people than it now contains, a place of which you say you are proud, and I believe you are. Absolutely hope is gone. The door of opportunity is closed, and there never can be anything further. Do you say that that privilege is worthless? We deny it. We say it is inestimable in its value.

So the spirit of the Fourteenth Amendment would absolutely do away with this provision if it were adopted. I am not saying that that would be accomplished through the courts, but I am showing that has been thought to be one of the safeguards of the individual in his right to vote and participate in matters which relate to his political wellbeing.

The Constitution of 1818 of course recognizes the rights of men and not of localities, and does not question whether they live closely together or far apart. The Constitution of 1848 did exactly the same thing, and there it was thought the State consisted of the men within its borders, that men made the State, and not wild land or unobstructed prairie.

The Constitution of 1870 had the same idea, and the man was the unit of representation. The citizen's right was fully protected no matter where he lived, if it was in Cairo or JoDaviess county or any other place between, his right was exactly the same. Not only that, but with two or three other states, the people who adopted the Constitution of 1870 were very particular on this question of election, and they put into their Bill of Rights something which, if this majority report were passed, most respectfully I ask you to take out of your Bill of Rights. It does not belong there. There will be a conflict of terms which is absolutely irreconcilable. You cannot make them work together. Article II, section 18, of the Constitution of 1870, which I presume is a portion or a part of this Constitution, reads as follows: "All elections shall be free and equal." Nobody questions the freedom of the elections in this State; but the equality of elections has been questioned, and the Supreme Court of this State has defined what equality of election means. They say:

"Elections are equal when the vote of every elector is equal in its influence upon the result to the vote of every other elector—when each ballot is as effective as every other ballot."

People vs. Hoffman, 116 Ill., 599.

Cooley on Constitutional Limitations, page 45.

"By declaring that elections shall be equal, I think that it was evidently intended to provide that the regulations for conducting them should be uniform and that no distinctions as to the evidence required to prove the elective franchise should ever be made between one class of citizens and another—between those residing in one place and those residing in another. If equality of elections does not mean this, it means nothing."

Patterson vs. Barbour, 60 Pa. St. 54, 63.

Agnew, J.

"How shall elections be made equal? Clearly by laws which shall arrange all the qualified electors into suitable districts and make their votes equally potent in the election; so that some shall not have more votes than others and that all shall have an equal share in filling the offices of the commonwealth."

Patterson vs. Barbour, 60 Pa. St. 75.

Dissenting opinion:

"It may be safely assumed that whatever embarrasses or renders difficult of enjoyment an undoubted right, just so far it impairs the right itself."

S. C., p. 86.

"To protect and preserve that sovereignty the people registered their will that the vote of every qualified elector shall be equal in its influence with that of every other one, by Section 18 of the Bill of Rights providing that all elections shall be free and equal."

People vs. Election Commrs., 221 Ill., 16.

"In People vs. Election Commissioners, it was held the vote of every qualified elector must be equal in its influence with that of every other one."

People vs. Strasheim, 240 Ill., 290.

Now, neither of those cases was a case of apportioning. They were not like this exactly, but the language used and the propositions involved were precisely parallel. It was held that elections, if they were to be made equal, must within reasonable bounds at least give each voter in the district to which he is apportioned the same power in the matter of election of officers of the State that any other voter has.

I cannot think of anything which would be more unequal, and I cannot recall the possibility of a thing which would be more in the teeth of the propositions that I have been reading than the proposition of the County of Putnam having an equal vote or anywhere near an equal vote with its adjoining county of LaSalle, or the county of Cook.

The scale of population in this State in the various counties is from 7,500 to over 3,000,000 people, and to take the county as a unit, however specious it may sound, is a monstrous mistake. There are 102 counties, and our House of Representatives ought to be limited to its present size.

We hear nothing in this discussion, so far as I can recall, about the practical effect; as to just what is going to happen by reason of the situation. Let us look at it. The Senate—there are 19 for Cook county and 32 for the rest of the State. It is true the rest of the State is slightly larger in population, all told, than is Cook county, although I haven't the figures here. We lost 180,000 population the other day by revision. I do not know what the downstate people are likely to lose or gain; I hope they gain.

Now that situation being true, 102 of the members of the house are taken right out in the apportionment question and set over to one side. Let me stick to the Senate for a minute first—19 Senators for Cook county, and you divide the population of Cook county by 19 and you will find you have upwards of 160,000 inhabitants to elect each Senator required. If you divide the down State by 32, you will find slightly more than 100,000 people to elect each Senator. That is, it takes one and six-tenths men in Cook county to one man downstate.

Putting it in another form, if you multiply the 19 Senators by the downstate ratio, it would make us all equal, and you would have 1,900,000 people in Cook county represented by 19 Senators; call it two million. Then you disfranchise a whole million of inhabitants by that apportionment. You leave out of consideration one whole million of them. Is that equality? Is there some kind of cunning reasoning that would avoid that result?

Now, take the House of Representatives; as nearly as can be guessed, without the exact figures, that House will have a movable number of members. It is not fixed as in the present Constitution at 153. It may go up, and if it were an ordinary apportionment, it might go up indefinitely. I will show you in a minute. First you take 102 men and set them aside for the counties, then you say every county that has 50,000 gets two, and every county with 100,000 gets three. There the downstate counties stop because

none of them have more than that ratio. Three is the most any one of them can possibly have under this apportionment. This apportionment provides that when it is made at the next decennial period, double the number must be taken to give another representative. That is, 100,000 will be necessary, and your growing downstate communities, your industrial centers, will grow, but they won't grow fast enough to catch up with this majority report, which requires a doubling every ten years to get another representative. It can never happen, because in the second ten years it takes 200,000, and the next ten years 400,000 to get another representative, and the next time 800,000 will be necessary to get another representative.

The only possibility of any county fulfilling this condition would be Cook county, but it would be so slight and so inadequate, it would fall very far short of giving them what we believe they are entitled to.

The result is that about 60 to 62, I think 61 is the outside, of that 183, would come to Cook county, which would be on this apportionment exactly one-third. What is the reason? If any man had come into this assembly room and addressed this assembly on the proposition that Alexander county or McLean county or LaSalle county or any other county of this State could be singled out, just as thoroughly as if they are named—and they are named—Cook county is named here—and had its representation cut because it was too thickly settled; if you had not had this agitation, and if you had not been in the habit of reading about it, and had not gotten accustomed to it, if your interest as you see it had not been distorted, you would deny the possibility of such a thing.

Cook county differs from the rest of the State only in the matter of growing and in its population. Now, about this fear—I have heard again and again the question asked, and I have never had the answer given, when, even now, have you ever known Cook county in any matter of general import to be united on a proposition? There are Democrats and Republicans, there are Socialists and agitators, there are men of every type of political ideals in that county, and they no more mix than oil and water. They have no common denominator, so to speak. It is absolutely impossible to make them mix in a matter of legislative determination in this hall or anywhere else. Your experience doesn't teach you the contrary; you fear it may be so. It is plain to me, and I say this without the slightest idea of saying anything against the intellectual honesty of any of you—far be it from me to suggest that—that your fears are perfectly groundless on that proposition. We are, as we always will be, differing, politically, socially and every other way.

Some one read some statistics here today, showing there was 100,000 taxpayers in Chicago. I don't know whether that is true or not, but I assume it is. Do you think the 100,000 will amalgamate with the millions of non-taxpayers on financial questions? Not for a minute. Do you think the man who wields the bloody knife in the stock yards and the silk-stockinged gentleman who lives on the Gold Coast of the Lake Shore are likely to amalgamate to a homogeneous mass and to send down to this legislature a solid delegation to the harm of the rest of the State. Why gentlemen, there are a thousand times more reason to believe that you gentlemen from McLean county, St. Clair county and all of the other counties downstate would get together. You are acquainted; you know each other infinitely better than we know the parts of our county. It is a well known statement, and no joke, that the man in Chicago scarcely knows his neighbor. It is an unsocial sort of a conglomeration of people. They do not meet and do not get together for the purpose of effecting some governmental scheme. It is one of the things that we never could bring about and never can.

The systems are so far apart they cannot be in any way united, in any shape or form. The only time I have ever known them to be united is right here now. And in that respect they differ widely from the New York delegation in the Constitutional Convention of that state.

The city of New York from time immemorial has been a positive Democratic city, with a tremendous Democratic vote. The state of New York outside of the city has been equally Republican, and occasionally the upstate

people—because they are upstate there and downstate here—get more votes into the ballot box than the Democrats can get, so there is always that political jar between the two parts of the State of New York, and every word read here was read from the records of eminent gentlemen—men at whose shrines I bow with the same holy ardor that the gentleman of this morning did—but every one of them a Republican. Every one of them showed that it was directly in their favor to limit Democratic New York so that the Republican party might prevail. Perfectly plain; perfectly feasible, if we are honest about it.

They didn't entertain any doubt it was the thing to do, because the thing they desired to do was the thing, and they wanted it just as you want this. Therefore they were, as we all are, examples of the proposition that it is extremely easy to believe the thing you want to believe.

But, how about New York that has been held up to us from the beginning as the great example of this great principle, the rule of the minority, because, gentlemen, you say you are afraid Chicago will come down here with a majority and dominate. It cannot dominate unless it has a majority.

I have been gratified and pleased by the able arguments of the gentlemen on the floor today, proving that the population of Cook county is quite the equal of that of any portion of the State, and therefore it is not the quality of the population that you fear. If it were it would be a fallacious argument, because you cannot disqualify a community because its people do not happen to suit you. If it were so, I could point you to some beauty spots in Southern Illinois which you might well disqualify from voting, if it were a question of the citizenship. You know that is not so. It cannot be done that way, but, they say, we are in a great community and that community is a unit which makes it dangerous to the State. Not one example has been cited where any such thing has ever happened or threatened to happen in any state or any community of this nation.

Speaking of New York, they have just about the same legislature that we have. They have 50 Senators and 150 Representatives. They do not give every county in the state of New York a member of the House, however. They combine two counties and give the two one. I commend that example to this body. Why did they do it? Why, they said one of them is too small. Yet this is an old settled state, nine-tenths of it thickly populated. It has within its borders the great city of Buffalo, with over 600,000 inhabitants; Rochester, with over 200,000; Syracuse, Utica and Albany, all of them cities away above the 100,000 mark, and they treated them all alike.

What is the limitation in the Senate? The only limitation that was placed on it was that no two contiguous counties, separated only by public water, should ever have more than one-half of the Senate. Just think of that a moment. No two contiguous counties. They might as well have said New York county and Kings county. Kings county is Brooklyn, or at least Brooklyn is partly in Kings county. Those two counties together, it was held, should never have more than one-half of all the Senators. Have we any such proposition as that put up to us? That we should never have more than half? How does it work? They have never reached that yet under the apportionment as provided in the Constitution. They have never reached a point where they would get half.

The other part of the situation is this, that the city of New York is in five counties, and in order that the limitation could not apply, they have recently established a new county, the County of Bronx; that was so that they could have five. They had four when the Constitution was adopted, and they put in a new one. Those counties are all divided and are no different from Erie county, in which Buffalo is situated. They could have said no county shall have more than one-third, but New York has five counties, which would make five-thirds, and that is a mathematical impossibility.

While it sounds well on paper, and while all the gentleman said was true, it was not all true; that is, the whole truth was not told.

You know at the time of the passage of this Constitution in New York King's county had 29 votes, 35 votes from New York county, and there were 3 from Queen's county and how many from Bronx I could not find out, but that brings the New York City vote up to between 60 and 70 out of the 150. Almost up to the half mark in the state of New York, as it is now.

Pennsylvania is not in point here, because its greatest city, Philadelphia, had only one-fifth of the population of the whole state, and she is limited to one-sixth in one House, but one house only. Baltimore is in point. Baltimore, Maryland, is another instance of the same thing as happened in New York. The people of Baltimore asked for it, and the Constitutional Convention gave it to them.

Rhode Island is a mere relic of the old colonial times. They never changed their constitution of one hundred years ago and the old representation has remained.

The same of Connecticut, the same of Vermont, my native state, where the House of Representatives is composed of 374 members, one for every township in the state. The whole state of Vermont gathers there in Montpelier when it has a state legislature. It is more like a town meeting. Worse than that, more like initiative and referendum than anything I can think of.

Most of these examples which are held up to us are not in point; not in New York, not in Philadelphia, or in any state except Maryland, perhaps, and Delaware is there any limitation on the great city of the state, as you would have here. I can give you places where I would go for political ideals rather than to Delaware or Maryland. I think I would follow, if I must follow anything, the ideals set out in our own Constitution time after time. And I should prefer time after time to repeat the ordinance of 1787, and the Fourteenth Amendment to the Constitution of the United States, and get my political ideals for the representation of men therefrom.

Gentlemen, I wish you would amend the title of this proposal. Instead of calling it "reapportionment," I can see three or four or five names which would be far more appropriate than the name attached to it. In the first place, it might just as well be named "a proposal to forever limit the industrial vote." No matter how much a community may go backwards, it cannot lose its representation as provided in this document; no matter how much another one may go forward, it can gain nothing of any consequence. The places that are gaining are industrial centers, and some of the people who have advocated some such arrangement as this have been perfectly frank about it and say the idea is to curtail the industrial vote, because it is too radical. I may not agree with the industrial vote. I do sometimes, and sometimes I do not, but I cannot subscribe to the doctrine that because people do not agree in political ideals with me they must either be wholly or in part disfranchised.

We do not discuss politics on this floor, but it might just as well be denominated, "a provision to keep the State of Illinois free from any intervention by the Democratic party for the next forty years." You cut out the Chicago representation of that party, because in the great portion of this State generally the other party is wholly dominant. But, all of that throw away. I don't care particularly about that, but I do care about the representation. We do have people in our county who are anarchists. They do not ordinarily vote much, but I tell you they do make a lot of trouble, and one of these days when laws are promulgated by the minority of the people in this State, when the proper representation of the population of the great county of Cook is not present in the Legislature, I can well understand, as was said by the gentleman from Cook this morning, how these rabid, soap-box orators on the street corners, surrounded as I have seen them time after time, by eager people, who had on their persons the marks of working men, unemployed, saying to them, "Why are we enjoined from interfering with these scabs who propose to take our places?" And someone says, "It is the law of the land." "Who made the law of the land?" "The people down in Springfield." "Who are they?" "Why, the minority of the

people of this State, the people who come from the country counties, representatives of the eighty counties of the State of Illinois, each one of which has less than 40,000 people, according to the census of 1910. Eighty counties with only 40,000, and from that down to 7,500. Those are the people that made those laws. Those are the people that did it." "Why," someone says, "I thought this was a country where the majority rules?" The other one says, "Not by a jugful, it is the minority rule in this State, and the law by which they propose to govern was passed, not by your consent in a representative body, but by a minority body regardless of your wishes or its effect on you." What are we going to say? Are we going to say, "Oh, you don't understand the plan of our government, you are unable to understand the exceptions to the rule that one man is as good as another; if you scatter yourself out in the country a little and get a larger area of soil between your house and your neighbor's you would be a man in the full sense of the term, and not simply a vulgar fraction." He would understand it, wouldn't he? I would say, "You are one of this great community, you have the same community interests everyone in Cook county has." I would not like to repeat the profanity he would use. "Why," he would answer back, "I have no community with the rich up here on the Gold Coast, or the man with the vaults full of securities."

I am no anarchist. I am not preaching this kind of thing, I am simply telling you what he would say. "Community of interests? Not much, no community of interests between us and him. When we strike, he tries to wear us down with the capitalist's club."

That is certainly the kind of talk you would get from various portions of the city. Are they going to unite in one harmonious whole, and dominate the State of Illinois? No, not in one hundred years.

Gentlemen of the Convention, I have had handed to me by a man who knew about this proposition, the suggestion that Whittier's famous poem, entitled, "The Poor Voter on Election Day" might not be out of place, and he took the privilege, although his poetry is not as good, to add just a little to it:

"The proudest now is but my peer,
The highest not more high;
Today, of all the weary year,
A king of men am I.
Today, alike are great and small,
The nameless and the known;
My palace is the people's hall,
The ballot-box my throne.

While there's a grief to seek redress,
Or balance to adjust,
Where weighs our living manhood less
Than Mammon's vilest dust,—
While there's a right to need my vote,
A wrong to sweep away,
Up! Clouted knee and ragged coat!
A man's a man today!

Thus once the Quaker poet wrote,
Thus once the rule was known,
Thus once the freeman cast his vote
With a pride then all his own.
But now, though equal rights we prate,
We penalize the man
Who lives within the city's gate,
And does the best he can.

'Tis not the brown and wrinkled fist
 Nor the gloved and dainty hand
 That makes distinction in the list
 Of those who rule the land,
 'Tis *where* he lives and *where* he votes
 That tells the doleful tale.
 The city's men are but the goats,
 Who follow up the trail.

He further said when war comes it's men who count, not "regions," and added this:

It's the people who count
 When the war dogs are out;
 They count when there's work to be done.
 This equality stuff is all well enough
 For the man with the hammer or gun.
 But when it's all over and you live in clover,
 He knows that two-thirds are not one!"

Gentlemen of the Convention, I thank you.

Mr. TRAUTMANN (St. Clair). In view of the fact a large number of other members desire to speak on this important proposition, I will endeavor to be very brief.

So there will be no misunderstanding as to what I want to say, in the outset I am against this majority report and I will endeavor in a few words to give you my reasons why I oppose this report.

I listened with a great deal of attention to the speech made by the gentleman from Schuyler, and I agree with a good deal of what he says, and I told him so during the lunch hour—I mean by that that I agreed with him when he was making his argument that this Convention has reached the place where you must put a limitation on Cook county. I believe that there are a good many members from Cook county that appreciate the fact that that should be done and that it possibly will be done.

Personally, it strikes me like it is a condition that confronts us, rather than a theory. We have had illustrations in this State for ten years when the General Assembly has refused to follow the provisions of the Constitution and make a reapportionment, and in that way they indicated to the people of Cook that the people that they represent down State want Cook county limited, and they did not propose to give them any more members and they have not done so, although in refusing to give them their just share in the House and Senate, they no doubt realized themselves that they were violating their oaths and violating the Constitution.

I have never excused them for doing it. I criticized them on the floor of this Convention. There can be no reasonable excuse for failing to make an apportionment under this Constitution. We are here making it anew, and we can now put it under those conditions that we see fit, but the Legislature should have followed those it found. If they had, there would have been four more members from Cook county in this Convention and four less from the other counties.

I judge from the remarks made here by the gentleman from down State, that nobody in Illinois would have been injured if there had been four more from Cook county and four less from the other 101 counties, because I have always heard from the floor of this Convention that the members have the highest regard and respect for the members of this Convention from Cook county, but they seem to be afraid of the members of the General Assembly from Cook county, and what they might do. The people down State have that feeling. I don't personally. I have served eight years in this General Assembly, and I never saw the time when the members from Cook county, to use a common phrase, attempted to "put something over" the down State members. And, whenever the members from Cook county came down to put

over a reasonable proposition on which there was reasonably unanimous support from Cook County, it always passed.

Is there anyone in this House or in Illinois that can truthfully say that the State of Illinois or its people were ever injured in the last six years because the Speaker of the House came from Cook county? I never heard of it. But, there is a demand from down State for some reason; as far as I am personally concerned, I feel that I should follow that.

I listened with a great deal of interest to the gentleman from Cook who just preceded me, and his logic sounded very good to me, but we have reached the stage now where I feel that there should be a limitation put on Cook county, wholly on the ground of its enormous population in one community, as compared with down State. But, I say, that limitation should be reasonable and it should be fair.

I don't find that fair and reasonable limitation in this proposal. I have read it over a number of times and I have read over a number of them before this one was submitted, on the same line, and I have talked to the down State members on this same proposition, and was very severely criticized for the expression of my honest conviction and opinions, and they have made some changes and some revisions. When the first draft was submitted to me, it provided in order for any county down State to receive any additional Senator, it had to have four times the ratio. If it took 125,000 people in 1921 for a Senator in any county down State, you had to have 500,000 before you would get the second one, and why that proposal was put in on the theory you were limiting Cook county I have never been able to get through my brain. I don't know. It had no relation with Cook county at all, had no bearing on Cook county. That county was specifically limited. They might just as well have told the truth and said, "We don't propose to give any county more than one member," because that is what they said, but not in that exact language. They have some very fine provisions in this proposal, and I feel like complimenting the able gentleman from Macoupin for his draftsmanship. In section 7, the third paragraph:

"Each county shall be entitled to one representative in each House of Representatives, and, by the first apportionment hereunder it shall also be entitled to one other representative for each fifty thousand of its population as ascertained by such census for the year 1920, as the unit of representation by population."

That was just referred to by Judge Cutting. Now, that is your representation in 1921, and listen to this:

"The representation of each county, as fixed by any apportionment, shall not be thereafter reduced, and additional representation by population shall be apportioned to each county, but shall be based only on its increased population above that required for the last preceding apportionment, and the unit of representation shall be doubled at each succeeding apportionment."

Why? In order to limit Cook county? In other words, in 1921 it will take 100,000 people more in any one county to get another member. Is that done to cut down the representation in Cook county? If it is, I don't understand the English language. As I said before, no county can be reduced in its representation, is that done in the interest of Cook county? I don't so understand. You give a county out here which has a little over 10,000 population two members. If the next census shows 4,500, it still holds two members, but if the large county of Sangamon increases from 95,000 to 130,000, we will say, in 1930, it will not get another member. Anything fair about that? Anything in that which restricts the representation of Cook county by refusing to give Sangamon county another member? I don't so understand. It seems to me under the theory or under the statement, you are going to limit Cook county, they have proceeded to also limit every other growing, prosperous community or county in the State of Illinois, and they have not only attempted to, but they have succeeded in this proposal. If that enters into this Constitution, if it is adopted and remains as the supreme law of this State, they have put the control of the General Assembly into the hands of eighty counties, ninety per cent of which are decreasing in population.

There are today, according to the census of 1910, eighty-five counties out of one hundred and two that have less than 50,000 inhabitants. Eighty-five. Possibly at the next census, which is now being taken, they will have less. According to the census of 1910, the official report is that fifty counties in Illinois out of the one hundred and two have decreased in population, and every one of the fifty are in this list of eighty. I have here the newspaper clippings on the report of twenty-two counties in the State of Illinois for the census of 1920. Eleven of the twenty-two have decreased in population, that is the same ratio, fifty out of one hundred and two and eleven out of twenty-two. And some of the large counties do not increase. I find counties here like Winnebago, Whiteside, Macoupin, Stephenson, and St. Clair and counties like that in this list. Yet counties like that have been reported here, and fifty per cent of them have decreased.

Now, gentlemen, I do not believe that this Constitutional Convention should put in a proposal in this Constitution that will forever give the control of the General Assembly to the eighty small counties of this State, and then attempt to do it upon the argument that you must limit Cook county. As I said, gentlemen, I am with you on the proposition of limiting Cook county, because I believe the people down State feel the necessity of it, but you must be reasonable with that limitation, and I am in favor of this proposition, because nobody in my judgment is going to get what they want here, and it will have to be a compromise.

I have always said that I am in favor of limiting Cook county in both Houses, if necessary, but I do not say that that is necessary. I think we can have effective limitation in one House, rather than an ineffective limitation in two Houses, but if the membership here feels that the county of Cook should be limited in both Houses, I do not feel that they should be limited in that case in the House of Representatives to more than fifty per cent, so that no one county at any time can have more than fifty per cent, but I do believe if you make an effective limitation in one House you have succeeded in doing what the people down State want. And I feel that a good many people in Cook county believe that that should be done. If you do not have an effective limitation, you know a limitation of five or ten per cent is not really a limitation, they have less members but a small body of men control. They always do. Everyone here knows when they go to a National party convention and they find the state of New York at a certain time throwing its eighty-eight or ninety votes to a certain candidate, he is always nominated. They haven't the majority, but it is the weight and power of that large number, and it is also true in this House, if you get fifty-five or sixty men that throw their weight one way, and they always have, they will control. So I say that is not limitation, and that has been my experience.

Why, talk about limitation. Some of the distinguished members of this Convention are very much alarmed because the thirty-six innocent gentlemen from Cook County might control in a body of one hundred and two. Very much alarmed, and they ran all over the State of Illinois and came down to see me about it. Now, if they are afraid that thirty-six men will control one hundred and two, why shouldn't the same gentlemen be afraid of the limitation even in the House, in this proposal for Cook county? It is not as strong, the percentage in this proposal for Cook county is a greater and larger percentage than they have in this body. If you were afraid of these thirty-six or eight men sitting here, wouldn't you be afraid of forty-five per cent? Then why make that kind of a limitation? Why not make an effective limitation in one House, and you never need be afraid of Cook county, and then when you come to important measures that affect Cook county and affect the State, and, in other words, affect the people of the State of Illinois, your members from Cook county and down State in the House and Senate will be compelled to get together and pass your laws, and in that case you will always have better laws. That is my theory of this apportionment, and for those few reasons I am unalterably opposed to the proposal reported by the majority of the committee which is now under consideration.

Mr. GORMAN (Cook). After having listened to the very able discourse on this subject by my colleague from Cook, Judge Cutting, I feel the ground has been very well covered. There is little left to be said, but in the very few minutes in which I intend to take up the time of the Convention, I merely want to record myself as unqualifiedly opposed to the majority report, and further opposed to any limitation upon Cook county. I am reminded in perusing this majority report of a Frankenstein that once was made by an ingenious youth by taking parts of bone and flesh and assembling them, and then inducing in the carcass thus born a battery and electric wire, by means of which the Frankenstein was given a sort of animation that scared its beholders out of their senses.

That same ingenious youth might have taken different parts of bone and flesh and assembled them together and made a mongrel, and by the introduction of a battery and a wire, he might have produced a galvanism within the mongrel that would permit its tail to wag the dog. I think the same ingenious method has been displayed in assembling this majority report, and it most vividly demonstrates the ability of a political mongrel, to have the tail wag the dog.

But, I cannot understand by what principle of governmental philosophy or by what rules of logic those who have drafted the majority report are able, either to justify or explain it.

When the discourse this morning brought in the very able debate by the gentleman from Schuyler, the only thing it revealed was a fear that Cook county sometime, by possessing a preponderance of the population, would in some way solidify all its diverse political elements and dominate the remainder of the State. I think in the arguments which have been adduced here that that fear has been or at least should have been dispelled. I cannot follow the logic of the minds of men which says that when a citizen is transplanted from the bullrushes of Rushville to the aromatic juices of Bubbly Creek of Chicago, that he shrinks to a manikin and becomes a fractional citizen. I think every citizen in the City of Chicago and in the County of Cook should measure politically the same as he measures in stature with citizens in other portions of the State. And I have found nothing, as I have said, in the arguments of the men who advocate the adoption of the majority report, that would give a clear concise, good, fundamental reason, founded on principle, why Cook county should be limited in its representation in the General Assembly.

The entire sum and substance of the arguments advanced are one that is founded on fear, and fear alone. And, gentlemen of this Constitutional Convention, I myself fear that if you permit the adoption of this majority report, or any substitute for it that will immeasurably cripple the representation of Cook county in the General Assembly, you are going to bring about a defeat of the work which you say you would like to commend to the citizenry of Illinois. And I stand now, as I explained in the preface to my remarks, as unalterably opposed to a disqualification of the citizens of the County of Cook in the exercise of the franchise by a provision such as is under consideration now, or any one of a similar character, that will prejudice in the General Assembly the people of the county which I represent.

Mr. CARLSTROM (Mercer). I have sat quietly and listened to the very able and learned discussion of the question before the House, not intending to speak if it could be avoided, and I shall not speak at very great length now.

I only want to say that this thought was suggested to me, as I listened to the distinguished delegate from Cook, Judge Cutting, and his very able discourse, that I do not believe, gentlemen from Cook, that the occasion has yet arrived for the signing of the solemn requiem. I believe you will find that this Body will justify its character as a deliberative assembly before we dispose of this question. I have thought seriously and earnestly about this proposal that is before the House, the majority report, and I cannot believe that it is otherwise than a monstrosity in the manner of the distribution of the representation in the State of Illinois. I do not want the

gentleman from Cook to be misled in my position, I believe sincerely and earnestly and at the appropriate time with the appropriate proposal I shall vote for a reasonable limitation upon the County of Cook, but that proposal shall have to be one that is based on the logical understanding and conception of the apportionment of representation under the American system of government as I understand it, and not upon any territorial division or distribution, as this majority report seeks to place a representation in the Assembly.

I have listened with great interest to the learned address, carefully prepared and splendidly presented, by the gentleman from Schuyler. I was equally entranced and interested by the able effort made by the gentleman whom I have named from Cook. I believe, gentlemen of the Convention, to vote favorably upon this majority report would be the greatest mistake this Convention could possibly make. I do not believe we can go to our own people down State, if you please, and justify to them a proper measure of intelligence in offering or suggesting a basis for representation by presenting to them this majority report, if it should unhappily be adopted, and I cannot believe, even though we desire and I personally am pledged to a reasonable limitation of Cook county, I cannot believe that this majority report will prevail.

I have listened, gentlemen, with a great deal of interest to the attitude expressed by some of the speakers as to what they thought would be a fair and equitable solution of this problem. We had hoped to have presented something of this character, perhaps will, that you will see later. I believe it follows along the lines suggested by the gentleman from St. Clair, Mr. Trautmann, that if anything, the solution on this problem of representation should be on the basis of population, and we should be satisfied if we limited the County of Cook or the City of Chicago in one House, and provided it should never have to exceed a majority in the other, and I believe when you gentlemen from Cook find the ultimate position of some of us from down State, that we will take on the matter, then you may not, in view of the fact you represent a particular citizenship, be ashamed to vote with us, but you can, will be able to go back home and face your people and say you were not deprived of the rights you came here representing, and I do not believe it would be right for this Convention to take such action as would bring about that result.

I only want to say this much, because all that can be said, historically and politically, has been said pro and con. I don't care to repeat those arguments, I only want to state my present position and appeal to those who might agree with me, and vote with you gentlemen in killing this majority report when you shall reach the stage when we vote upon it.

Mr. KERRICK (McLean). It is not my intention to make what might be called a speech or discussion of the grave matter under consideration. I wish to say at the outset it has never been my great pleasure to hear so ably presented reasons for and reasons against a proposition of so great importance as I have had the opportunity of listening to here today. Evidently there has been a wide investigation and serious thinking and honest thinking on the part of the eminent gentlemen who have so clearly and so vividly presented their respective reasons upon both sides of this great question. But, as I have sat here, listening and profiting by what these gentlemen have said, there have been certain facts running through my mind that seemed to me to have as great, if not greater importance, than the wonderful presentations made in the way of such arguments and debates.

There is a reason why so many men, hapenning as it does that they are down State from Chicago, seem to have had their minds impressed with the great necessity of so arranging the legislative bodies of this State that the great population in its northern end may not be the engine which propels the governmental processes of this State, which has led them to believe that such an event would be an ushering in of possible great harm, not alone to the people south of Cook county, but to the citizens of that great metropolis as well.

Events transpire so briefly, and of such importance, that in comparatively brief time impressions may be made upon our minds and fade away and give place to newer ones, but I have not forgotten, and I presume that but few here have forgotten that within a very few short months from a desk in front of the honorable presiding officer of this Committee of the Whole, when its Governor of this State, in answer to a question proposed by a delegate from Cook county, the question being whether or not if the three propositions which that ex-Governor was advocating and insisting should become a part of the Constitution we are here to make, that if they did become such a part, in ninety to one hundred days the question could not be submitted to the people of the State of Illinois, whether or not they should not abolish the constitutional law of Illinois, and the reply was, that was, as he saw, the effect.

In connection with that, my mind leaps to another fact, when these men were elected to sit here to alter, revise or renew the Constitution of this State, the population of Chicago had been so distributed that if it had a majority of the fifty-one Senatorial Districts in its boundaries, as apportioned, giving 80,000 majority for that proposition, in those districts—instead of these gentlemen listening here with such earnestness and such patriotism to this great argument advanced, instead of this Convention, you would have a Convention composed of a majority of members who would have embodied in the product of their labors here under the name of a Constitution, that which would destroy the instrument itself, a proposition that upon a fractional number of the people petitioning that the question or not a part of all of the Constitution should be eliminated and forever destroyed, the majority of an excited and misled populace could have destroyed forever the fundamental law of the State of Illinois.

Now, imagine the simple fact within recent occurrence which we have perhaps allowed to grow dim in our minds, let us go over it again, an ex-Governor of this State, at the head of a great organization, so organized and of such great number it required all of the people of this State to vote upon three propositions which led directly to the destruction of all constitutional law, that is the possibility was there contained, and the probability, when in the great County of Cook a majority of 80,000 was rolled up in favor of those propositions, and had it not been for those eighty little counties down State who flung back 40,000 of that majority, there would have been still 80,000 people in this State practically in favor of abolishing the Constitution of the State of Illinois. I sympathize, and I agree with the eulogy paid by the distinguished member from Cook County upon his fellow-citizens of Chicago. The people there are as good as the average people, but gentlemen, we cannot wipe out the fact upon a proposition looking towards the direct destruction, there is contained in that document seeds and abundant seeds, not only of destruction of life of representative government, but nothing better than autocratic or mob government.

I don't suppose there are many men in the State of Illinois that thought as seriously or as conscientiously as the members of this Convention about this question. It is not a political matter. It is not a desire to get the best of Chicago.

It is not a desire that the counties down State shall control Chicago. They can never do it, if you gave them five to one. And they do not want to do it. But, gentlemen of the Convention, you need us in Chicago when 80,000 majority can be rolled up against you there for a proposition which you do not believe in and which you fear, which you know, if carried into effect, would be fatal to any sort of government, so, then, whether or not this chapter or that chapter is passed of it, is all of very little concern. It matters not whether the effect of the provision in this proposition does increase the population of the larger down State cities at the expense of the rural districts. In fact, that is one of its fruits, because in just such proportion as cities like Springfield, East St. Louis and Peoria increase, just in that proportion comes the need of entrusting to the smaller counties, the

counties who have more time and more reason to think of these problems than in the large, hustling business centers of the State, the cities. It is all right, that is one of the things that makes me favor this proposition. It is not aimed at Chicago, it is aimed at the congested populations. But say what you will, you know you are not so well qualified upon the whole, man for man, to take care of the best interests of the State of Illinois as where they are not so close together,—where they lack the homogeneity of the smaller communities. It seems we are losing time to talk about reviewing and changing and doing this and that and the other thing in here, to that which has been the subject of thought for many months by men who have nothing but the best of intentions for every man, woman and child in the State of Illinois. I do not think you can improve on it. I don't think you can hurt anybody. It has been in operation in like conditions and we know its effect, it has had no bad effect that I can think of. No one has said that the people of New York are grumbling because they are limited in their representation, or Baltimore or anywhere else. The thing is a fixture and has proven satisfactory to the American people. The thing has had the approval of the greatest minds in America, whether they happen to be Democratic or Republican, as my friend undertook to classify them. I know some of the great men spoken of there. They are of the class of men that did not have to seek office. I do not believe Mr. Choate was an office seeker. I always thought he was an American statesman who was always likely to know what he was saying, and not saying what he did not believe. I tell you it counts when a man of that type advocates a measure of this kind, but what counts more than that is the universal satisfaction growing out of the practice.

It has been said by my friends that it is because someone is afraid. Don't get that in your minds, we are not afraid of anything happening to us particularly that we cannot live through, but we have about all we want to do now one way or the other. We don't want to have the job of taking care of you people in Chicago when you have 80,000 to give a majority for such statements as they did last Autumn. Chicago needs us, as well as we need you. You cannot get along with a smaller number, you need to leave some of your good men at home, even while the Legislature is in session.

I think we are making too much trouble about this. I think we have a good plan worked out. I haven't a bit of doubt that every man here from Chicago or Cook county knew that something like this was going to happen. I want to say shortly after I knew I was to be a candidate, I had a number of letters from Chicago men, wanting several propositions incorporated into this Constitution, but particularly a diminution of Chicago's representation in the Legislature, for the good of Chicago.

I have talked longer than I expected. Thank you.

Mr. RINAKER (Macoupin). I do not intend to talk at much length on this subject. I haven't any animosity or dislike for Chicago. I have, certainly, nothing but the kindest and friendliest feelings towards the delegates who are here from Cook county and Chicago.

So far as I have taken part in this matter, it was not of my own seeking, as I had not taken any special interest in the matter of legislation or apportionment, but happening to be upon the committee that had it in charge, necessarily I have considered it and have read the different propositions that have been submitted to us, and when the sub-committee was appointed and I was placed on that committee, I have as one member of that committee tried to consider all of the different proposals, and tried to select the good and eliminate the bad, from my point of view, at least, with a view to getting at a system that would be defensible, that would be permanent and that would be effective.

I do not see any reason why the State of Illinois, under the conditions that have arisen since your present Constitution was adopted, by reason of anything contained in the old ordinance of 1787, or from practice, is so thoroughly and irrevocably committed to representation based only on population. The fact is, with the very slight investigation I have made, I do not claim any erudition on the subject, I have not investigated the

case as perhaps I should have, but I am content to rest the argument in favor of the limitation of Chicago's representation upon the magnificent argument made by the gentleman from Schuyler, than which I never heard a finer, and which I believe cannot be improved on by any in this Convention. I saw no reason why, in obtaining what I believed was the overwhelming desire of the people of the State outside and inside of Cook county, that there should be an application of principles that are so well demonstrated in this Constitution. I saw no reason why the suggestion coming perhaps first from the gentleman from Bond, so well embodied in the proposal of our friend from St. Clair county, and embodied almost word for word in the proposal now before us, should not be adopted.

On the second page of Proposal 293, introduced by Mr. Trautmann, on February 27, 1920, and, which, I confess, had a good deal to do with prompting my opinion in this matter, the second sentence in regard to representatives is: "Each county shall be entitled to one representative, and each county having more than 100,000 inhabitants and less than 200,000 shall be entitled to two representatives," and so forth.

When I considered in a number of states, the county was the basis of the representation, it seemed to me that that was a reasonable and defensible proposition, and I still think so, notwithstanding the attack made here. We have small counties and large counties, but not the method of apportionment which is not the same that was suggested in the proposal of the gentleman from St. Clair, in the plan there advocated. We have adopted a unit of representation where you add to the county proposition the element of population also, different from that proposed by him.

It seems to me that, starting with the county as a unit, in deference to our established custom in this State, the fact that the people were educated undoubtedly along that line, and it was perfectly defensible, and it was not to be criticized, if we added to this basis the element of population, and that was what was done in this proposal. It was not, so far as I had anything to do with it, influenced on my part by the considerations of my county or by a desire to aid any county or a desire to punish any county or to restrict industrial labor.

I personally disclaim any thought of that kind. I had no such purpose. I have none now. I did feel that, starting with a representative, one to each county, would require 102, and we could not, with reasonable practicability, add very much to the representation by reason of population. It seemed to me there were counties objecting to any reduction in their representation. There was the County of Cook demanding, and rightfully, that its representation should be increased because it has been wrongfully deprived of representation in the past, and with considerable vigor. It was found that this basis, as adopted, would maintain better than any other basis, that we could select or strike upon the present condition of the greatest number of counties in this State having representation now. It was found, upon consideration, and it appeals strongly to me, that some of the large counties, whether it be by reason of the primary or whatever the purpose or occasion there was for it, a large number of the counties in this State, by reason of their size, were and for years have been deprived of any representation whatever in the legislature. It was held out as a promise that they would have, but I don't know the impression, I am somewhat as our friend from Champaign was, I am lost on it—but so far as delivering the goods, these counties had no representation. I do not believe, and I did not then believe, because a county is small, because it is an agricultural county, it should perpetually be deprived of representation, either by the lack of law or by the action of a primary. It seemed to me it was absolutely a defensible position to say that the 102 designated communities and subdivisions of the State, integral parts of the State, created as such by the Constitution, recognized as such, created by the law existing for eighty years, that each of them with its community of interest which could not be entered into by anybody living outside of that community, was

a proper basis of representation to begin with in the establishment of the popular House of the General Assembly, and I see no wrong in it.

So far as the Senate is concerned, we have suggested there an entirely new idea in this State, and that is basing the apportionment in the Senate on the electorate and not upon the population.

Now, it seems to me that there are good reasons why there should be one rule adopted as to the Senate, the more restricted House, than for the general House; that our alien population might be considered and represented in a popular House and that the voters alone are represented in the Senate, and it would not be an unfair or unjust discrimination.

I am not irrevocably committed to the words and letters of this proposal. Here a sub-committee having this in charge has put in a considerable length of time during the five and a half months that we have been here in session. This is a matter, while it has not been discussed here upon the floor, we have all been discussing and considering outside of this hall, thinking about it all of the time and knowing it was one of the vital things, as vital as is indicated by the evidence here today, where but twenty-eight of the one hundred members remaining in this Convention can be brought to vote for going back to the old provision of purely a population representation. We have been considering it all of the time, and we have known it was coming and have put a good deal of time on it. It does not give it any sanctity, but it is a constructive proposition, and you have today refused by your vote to consider the old plan in the Constitution, of representation based on population alone.

So, much of the discussion taking place here this afternoon from a strictly parliamentary standpoint is not in order, because that is settled. We have then here this proposal, the result of our efforts. We believe it is defensible. We know it is permanent, because with the clause in it that is criticized by the gentleman from St. Clair, and which was not inserted for any such purpose as charged by him, but having that effect, I admit, inserted, not for the purpose of preserving to any particular county anything, but for the purpose of establishing a basis that would permanently retain a basis of representation that could never bring about in the State of Illinois a condition that has been prevented in every state where the conditions are in any way similar to ours.

If you adopt any basis of apportionment that I can think of, it is something that may be changed and ultimately you may find, as we find today, fifty years after the Constitution of 1870 was adopted, that under it one county can control the State. It cannot be done under this provision. It is permanent and it is effective. Upon the basis of county representation, it is fair to every county. Upon the basis of population, for additional representation, it treats every county alike. It does not punish the increase of population, it does not give to the increased population the power to overcome the basis of population which is designed to spread the legislative power over the whole State of Illinois; over every county in the State of Illinois, instead of letting it become vested in the control of a single county.

It has been suggested, by some things that have been said, that this is an extreme proposition, and that there should be some getting together; that there should be some compromise, some agreement about this. The first thing I heard on the subject of representation was a remark that I regarded as a little humorous at the time, when the gentleman from Champaign proposed in the Legislative Department Committee to the present honorable chairman that we now get together and agree upon a restriction of Chicago's representation. After five and one-half months, if I can size up the situation, those two gentlemen who can get together on most any proposition are as far apart as they were when they were sworn.

The gentlemen from Cook County cannot be criticized for standing as they do upon this proposal. I do not attribute to them any bad faith or any improper motives at all, but in the first instance they propose to come with a proposal on a situation that they know exists, not only downstate

but in Cook county, and say to us, "What shall be a fair and reasonable apportionment?"

Mr. SHANAHAN (Cook). May I ask the gentleman a question, or any member on the floor of this house? Will any member present a letter from any citizen in Chicago asking that the representation of Cook county be restricted in both houses?

Mr. KERRICK (McLean). I said I received a certain number of letters; I did not preserve them. They were received, as I said I have received them.

Mr. RINAKER (Macoupin). Let me proceed. I said I would not disclose the names of these gentlemen from Cook county who have said to me with absolute truthfulness that they believed it was right and proper—let me say, by the way that the last gentleman who spoke to me on that subject is a gentleman in Chicago, a politician of considerable influence there; I would not mention his name, of course—he said it was right and proper and for the good of Chicago that there should be a restriction of their representation, and I told him what the provision was, and he said it seemed to him that was fair and reasonable.

It is easy to jump on any proposal brought before us, and to criticize and find fault, but we have reached the stage where the proposal before us now, in my opinion, should not be defeated at this stage, whether or not it is perfect. It may be hereafter. It may be it is too extreme; while I do not personally think so, yet there is plenty of opportunity to point out by constructive measures and not by destructive measures how this plan can be improved. We have today settled the one proposition that the plan, whatever it may be, will not be the old time plan of proportionate representation alone. So, that this proposal that is here now is the best that your sub-committee, with its small ability, could do to present as a constructive proposal that would carry out the idea of effective and permanent and defensible restriction of the representation of the County of Cook.

Not simply as a matter of fear, not because the people of Cook county are fractional voters or fractional men; they are not, but when we hear, in the discussions coming before this Convention from distinguished citizens of Chicago for all kinds and all classes, that by reason of conditions in Chicago they cannot even elect their judges in the way they have heretofore been elected, that that ought to be changed, that they cannot select many of their officers in the same way, when the citizens of Cook county come here and say, as they have said in the presence of this Convention, and the records here will show, that the method under the present Constitution of the governing of the State is defective and is not sufficient, is not wise and must be changed, then I say, Mr. Chairman, that the gentlemen of Cook county must bear with us if we say, "If you cannot safely trust yourselves to your own home citizens, you cannot ask us to entrust to you the absolute right to dominate not only yourselves, but downstate as well," and I say it with no unkindness whatever.

While that subject is before us, I would like to inquire—I don't know, I have heard some statements about it—I would like to ask some delegate from Cook county to inform me now, and I yield the time for him to answer, to say whether or not the wards of Cook county today are apportioned on a basis by which the men, the voters of Cook county, are in their elections equal, or isn't it a fact that your wards are disproportionate, or by reason of growth or something are there some little wards and some very large wards? I have been told, I heard one gentleman say that there were 44,000 more voters registered in his district than some other one, I believe it was, and I have been told that the wards of Cook county are very, infinitely disproportionate.

Mr. DUPUY (Cook). I would like to answer the gentleman's question. It is in this afternoon's paper in the decision of the Supreme Court.

Mr. RINAKER (Macoupin). It is held unconstitutional because the present Constitution does not provide a method of representation in that way. If that is the way you govern yourselves in Cook county, I do not think it comes with the best grace for us to be criticized very much down State. I do say on that same proposition that the Constitution provides—

Mr. HULL (Cook). I would like to ask the gentleman a question.

Mr. RINAKER (Macoupin). Just a minute—that if the Constitution provides the method of apportionment that is proposed in this proposal, it becomes the law of the State, and in answer to another suggestion that was made, it becomes the law of the land when the people of the State adopt the Constitution. When they do adopt it, it becomes the law of the land, and no provision adopted by the legislature could change the Constitution.

Mr. DUPUY (Cook). Will the gentleman allow me to read a little further from the opinion which I have in my hand, referred to the Primary Law?

Mr. RINAKER (Macoupin). I had already heard the opinion read in full. It is correct, in the absence of a provision such as is proposed by this proposal, such law as we are proposing would be unconstitutional, but would not be if embodied in the Constitution.

I have also heard a good deal said about New York and the limitation there. I have been informed, and I have no doubt that some gentlemen who have investigated this matter more fully than I can correct me if the matter is incorrect; I have been told that when the Constitution of 1894 in New York was submitted to a vote of the people, that without regard to whether or not there was a political question involved, the City of New York voted for the ratification of that Constitution. I do not vouch for the accuracy of that statement, but if it is correct, as reported to me, it is an answer to all criticisms made on the distinguished gentlemen who were quoted by the gentleman from Schuyler this morning.

At any rate I have not heard of any attempt in any of the States where there has been a restriction upon the representation of the large cities, made for the same reason that they must be made here in this State. I have heard of no attempt, successful at any rate, none of any kind to repeal those provisions because they were unsatisfactory, and were found in practice to be wrong and to bring about the evils that are threatened by some of the gentlemen opposing this proposal.

I submit it, after those twenty-four years or twenty-six years in New York, they are acquiescing in that particular provision, and we in this great State of Illinois need not be afraid of trying the experiment here, where the conditions are in many respects the same.

Mr. HULL (Cook). Have you read the New York Debates in 1915?

Mr. RINAKER (Macoupin). No.

Mr. HULL (Cook). I suggest you do; if you read them, you will find a very strenuous effort was made there to undo the wrong that was done to the City of New York in 1894.

Mr. RINAKER (Macoupin). Am I correct in my statement that there was no attempt to repeal it by amendment except in the revision?

Mr. HULL (Cook). I do not know whether you are or not.

Mr. RINAKER (Macoupin). If they acquiesced in it, it cannot be as dangerous as the gentlemen from Cook fear.

It is said in New York also they combined two counties. I am not familiar with the details of that. I am not prepared to say as one delegate that this particular proposal might not be amended to remove a possible objection to the basis that we have adopted, but the principle, it seems to me, is defensible.

Now, as to the objections made by the gentleman from Peoria; I had not considered this thing in any way as a political proposition and a partisan proposition, personally. I have always lived in one of the districts where minority representation was the only opportunity that my political party had of getting its head above water.

I always thought as a matter of personal interest, influenced by that perhaps, that minority representation was not a bad thing, but I recognize this fact, that in the experiment of fifty years, we have found that the minority representation does not work practically.

We have also found in these fifty years that by reason of the enormous growth of our splendid city on the lake, a single basis of representation, that

by population, alone, must be abandoned, as must be abandoned the proposition of the minority representation.

They are, so to speak, twin relics of barbarism. They must both go, not for partisan purposes, but because practically they do not work for the best interests of the State. Proportionate representation is a good thing, but I am just going to be this partisan to say, with the highest regard for the gentleman from Peoria, that it seems to me that proportionate representation does not come very well to those whose representation in the eleven or twelve or thirteen states of the South is as much of a minus quantity as it is. It is all right enough in Peoria, but it don't work out.

I beg your pardon for taking as long as I have, but it seems to me with the policy of the Convention settled by the vote taken, that this proposal is in a fair way, if it approximates the fairness necessary to the best interests of the State. It is a proper matter, and it should now be passed by this body, and there is plenty of opportunity hereafter for any amendments that will be constructive along the lines indicated by the clear majority of the delegates of the Convention.

Mr. TRAEGER (Cook). I am going to take up but a very few minutes of your time, because you have listened to a great many able addresses today on this subject.

I came to this Convention as a citizen of the State of Illinois, not as a Democrat, Republican, or member of any other party. I came here not to disfranchise part of our State, but to give equal representation to all citizens of all parts of this State, to sit with you and deliberate with you upon all subjects, that may benefit the great mass of people of Illinois.

Reference has been made by a speaker, in this Convention, that upon the Home Rule question in Chicago we did not know what we wanted. Further reference has been made that Chicago absolutely was so bad and unredeemable that 101 counties within the borders of this State might select their judiciary, but for the County of Cook they were absolutely unable to select their judiciary, and therefore should be disfranchised. I want to say notwithstanding a proposal having been introduced in this Convention along those lines, and notwithstanding the delegate has referred to the able men who spoke from this platform on the proposition, that that very proposal does not carry with it one-half of one per cent of the voters of Cook county. I want to say that they are opposed to that as much as they are to the limitation of Cook county or the disfranchisement of the citizens, and to go before the world and hurl the words, "Chicago is so bad we cannot trust them to select their own judges, nor can we trust them to have equal representation with other citizens in this State." I believe, and I want to say to you, that I have the highest regard for the gentlemen outside of the County of Cook in the State of Illinois, and I was all of my lifetime advised and told, and I believe up to this time that they represent the most honorable and upright class of people within the borders of this State, but, gentlemen, I believe at this time you are exceeding what is just and honest for the citizenship of Cook county. Why all at once should we become so bad? True, in the County of Cook we have had officials who have gone wrong, but I want to say to you, you have admitted, some of you, on the floor of this hall, that some officials outside of Cook county have gone wrong, and you thought perhaps certain officers should not succeed themselves because it gave them an opportunity to do wrong in public office. True, in every county of this State, and in every State in the Union, you find some conditions that are not for the best of all the people. We have met with those conditions, and we do not stand here today to tell you gentlemen that we haven't some bad citizens in the City of Chicago, as well as every other part of the State, and in this Union. We do not hold out a banner and say, "We come here white, clean, untainted," no more than any other part of this State or Union, but we do claim we are one hundred percent citizens and entitled to consideration as such in this State.

Some years ago our forefathers followed Lincoln of Illinois to free a great race in these United States. To free them and give them equal rights upon the soil of the United States with every other man. Today we stand here and we have the proposition placed before us that you are going to disfranchise the rights of citizenship in the County of Cook.

In 101 counties of this State I am a one hundred per cent citizen and have a one hundred per cent right to vote, but in the County of Cook you are going to limit me to a fifty per cent citizenship, notwithstanding that when taxation comes I must be a one hundred per cent citizen.

Gentlemen, we want to come before you on a matter of justice, and that which is absolutely right, and I want to refer back to what I said, and I have heard it said several times during the time I have been down here, that Chicago unfortunately has so many undesirable citizens; there is a lot of them claim we have an element of foreigners who do not make up the good citizenship of this State. You and I, gentlemen, will admit that probably every great city in the Nation has men who have emigrated there, who have not as yet become citizens, and probably are not able to speak the English language. They come with that handicap, but the Constitution of the United States admits them to this country. When our forefathers emigrated to America and were received at the landing, they were taken by the hand and told to go forth in the free country of America, well protected; they said, "We will protect you and give you all of the rights that an American citizen has, however, with the intention at some future time that you will become American citizens, so long as your conduct does not conflict with the laws of the United States."

If we have so many of these undesirable citizens, a provision made in this Constitution is not going to change that condition. But I want to say to you that there is a provision of the United States Constitution that I would like to see put in, it would have my approval and every other citizen's approval, if when we could prove beyond the question of a doubt that undesirables resided within the bounds of the United States, we could send them back to the country where they came from. But, do not criticize many American citizens of one community and make them suffer because of the fact that you claim there are some undesirable citizens there. I believe the great mass of our foreign people who emigrate to this country, and downstate generally in the rural districts you have a good many of them, and I will leave it to yourselves, if the great mass of them have not become the best lawabiding citizens. True, there are some bad ones, you will find them wherever you go. You say about Chicago, we have more of them there, yes, because it is densely populated and there are places for them, if they are bad, to go under cover where they could not in a small place.

I want to appeal to you again, treat us as one hundred per cent citizens, treat us as having a one hundred per cent vote on one hundred per cent taxation. I say to you, you will find no danger should at some future time Chicago's representation control this State. Why should you feel any degree of fear? I have been here with contests and candidates before the legislature in this hall, as a public official, when we came down here before your honorable body, and we had a just and a right demand, you always came to our rescue. You never denied us. As my predecessor said this morning, he too had been down here and received the same consideration. Why should that fear come into the 101 districts outside of Cook county, should perchance Cook get control of the legislature of this State we will instantly begin to destroy everything that has been done in this State? I want to say to you that you will get just as good representation as we have received when you were in the majority. I don't think, gentlemen, you should have one iota of fear. I don't think you should consider us as you have.

In conclusion, let me say to you I hope this majority report will be defeated, as has been ably stated by the delegate from St. Clair and Judge Cutting and the delegate from Mercer, give us that which is just and right,

let us be fair with one another and deal with one another on a proposition. Let us be heard equally and I have no fear but what the results will be satisfactory to the delegates from the State of Illinois to this Convention. Gentlemen, I hope we may not lose ourselves in the anger and excitement which sometimes may come into a convention, and do things unjustly. There is no reason for it. Cook county, as I want to say again, on the appointing of judges, that matter if brought before the people of Cook county would defeat this Constitution worse than the limitation of the representation. It is not the want of the people. It is one of the proposals introduced in this Convention, like others that have been introduced, forgotten and lost in the committees. Therefore, if we are fair and just, and I know you want to be, with one another, I assure you that the delegates from Cook county have the same feeling about you, and you should have towards the delegates of the county with the greatest city in the United States. They are men you should be proud to have within the confines of your State, and in the future generations to come, the people of the State will boast with pride of having within its confines the largest city of the United States.

Mr. MICHAL (Cook). I just want to make a few remarks on this majority report of the legislative committee.

I cannot for the life of me see any merit in the contentions of the majority report at all. I think it abounds with viciousness. I think some consideration ought to be shown to the citizens of Cook county. We hear very frequently compliments from the lips of the downstate delegates, when they describe the City of Chicago; they call her the "Diamond City of the Lake," laud her to the skies; today I heard the unfortunate remark that the City of Chicago is the sixth pro-German city of the whole world.

Mr. Chairman and gentlemen, many a thing is said in the course of deliberations in deliberative bodies that may be excusable, but I do not think that anything is so malicious as to term the representative class of people that are inhabitants of the City of Chicago and say they are pro-German, and impute to them lack of patriotism. I resent that, gentlemen; I think it is a serious statement to make in this Convention, and I do not think it is fair. I think it is malicious, and I think it ought to be expunged from the records of this Convention.

You know Chicago has over twenty-eight hundred thousand inhabitants, and to have statements made of the factional difficulties in the Republican party with regard to the present incumbent of the Mayor's chair, that is merely a small matter and that has not the assent of that great and vast majority of citizens who remain silent in factional squabbles in the Republican party and certainly the odium, if any there might be extracted therefrom, ought not to be reflected upon the people of that community as a whole. I do not think there is anyone in Chicago that fought any harder against the Mayor than I did, but we were beaten, and I recognize the right of the majority. I recognize the right of the electorate in voicing their selections at an election in accordance with the law, and I bow to and respect the Mayor of Chicago as a Mayor, because I want to be a loyal citizen and I want to abide by the law.

I did not think that we would come to the situation in this Convention where we would have to take up for discussion petty politics. I thought that bugaboo would never enter the portals of this great chamber. I believed the men here as a whole were far above mudslinging at the twenty-eight hundred thousand loyal people who reside in your Diamond City by the Lake. I did not think, for any factional differences in a certain party, or for party politics, you would endeavor to dictate the politics in the representation of twenty-eight hundred thousand citizens of Chicago. Gentlemen, let me appeal to you; let me ask you to be Americans, whatever your feeling be as to the incumbent of the mayoralty chair. Let me call your attention to the fact that he will not be there for all time to come; that sometime it will be changed. That seems to me the sole and only bone of contention—you believe that the Mayor who is inimical to the majority of the party represented here is going to dictate the affairs in Cook county for all time to come.

Let me call your attention to the fact that the more slams you are going to give that man in the Mayor's chair, the stronger you are going to make him, and the more you are going to solidify him with the people of Chicago, and the more disastrous it is going to be to your party; and you cannot get away from it.

I say to you, my friends, avoid these petty politics and give us what the American people are entitled to, a fair and honest representation.

I want to go on record here now that I will not stand for compromise; I will not go back to my district and tell my people that I have been a party to any deal compromising their rights for representation in either branch of the General Assembly. I want to say to you that I will stand pat until hell freezes over, and if you cannot assent to the American principle of fair and honest representation, I will close my desk as one member from Cook county and let you do the work without my services.

Mr. MORRIS (Cook). You can cover over with pleasant and agreeable words just as much as you will the proposal under consideration, but, after all, every man in this Convention knows that it is simply an effort on the part of the controlling members, those who conceive that they are the controlling members, to in a large part disfranchise the citizens of the State of Illinois who live in the county called Cook.

You can talk about it and smear it over, act pleasantly with us, just as much as you like, but that is just exactly what it amounts to. Now, have we reached the stage in the history of the people of the State of Illinois where a thing of that sort is a necessity? I understand, as far as my ability will permit me to gather the thoughts of the gentlemen who have hurled the matter broadcast by words, that they are afraid of something. If there is anything distasteful to me and which has always been distasteful, it is the thought of possible disfranchisement, and it has come with very poor grace from the men who sit in this great Convention in the great State of Illinois to undertake to work out a system that will lead to disfranchisement.

The right to vote and to have that vote count as much as the vote of any other citizen is a right preservative of all rights, and the moment you put a citizen of any particular section of this State beneath or below that of any other citizen, in some way or other you put a mark of degradation upon him that makes him feel dissatisfied, and that is destructive of the very principles of a free government.

Now, we do not assemble in the legislature of this State for the purpose of representing land. I am at a loss to understand the logic of the situation and of the gentlemen who proclaim that we come here to represent counties. We gather for the purpose of representing, not land, as considered by some particular division, but, after all, we come to legislate for the people, for the man and for the woman, irrespective of whether they live in one county or the other. And when you put a stamp of any kind upon any citizen that makes him inferior to the citizen of any other party of the State, you do something that tends to destroy the very fundamental groundwork of your organization and of society and of government. What is the object, after all, and I do not intend for a moment to enter into any lengthy discussion of these things? What is the object, after all, of the institution of government and of the election of men to the General Assembly? The making of laws. It is to promote the prosperity of the people of the State, and how can you best promote the prosperity of the people of the State if you are going to plant the very thing in their minds that will tend to bring about discontent?

Now, you cannot have a prosperous State, you cannot have a well conducted State, unless the majority of the citizens of the State are contented with the form of government and feel that they have something to do with it. You may out-vote a man, you may bring a lawsuit against a man and defeat him; he goes home, if he has had a fair chance at it, much more content, although he has lost in the battle than if you say to him in the very beginning, "We are not going to hear you; we are not going to permit you to participate in this thing; we will do it for you, we will take care

of you." I don't want anybody to take care of me, but let me take care of myself. And that is exactly what the citizens of Cook county are asking, not to rest eternally and forever on your tender mercies, but to be permitted to stand up and exercise the same rights and the same privileges that you have as citizens, that other counties and parts of this State are permitted to exercise.

You say to us, "Why, you come here"—and other gentlemen have referred to this, "and confess your inability to elect proper judges." I want to resent any such imputation. We don't do any such thing. I can go into every county in this State and select some particular individual who will express dissatisfaction at what you have done in that county, and so, gentlemen, because they are invited to come here and tell us that certain things have gone wrong in Cook county, and without pretending to hold for a moment any brief for the men who have served on the bench in Cook county, I do want to suggest that Cook county has furnished just as many brilliant, honorable legal lights on the bench as any other county in this State. We point with pride, and may well point with pride, to the judicial records made by dozens of men who have graced the bench in Cook county, and notwithstanding the fact that here and there possibly some mistake has been made, the people of Cook county have, for fifty years to my knowledge, made but few mistakes in the selection of eminent gentlemen who grace the bench. We have given to the State such men as W. K. McAllister, on the Supreme bench. We have had ourselves such men as M. F. Tuley and O. H. Horton, and a dozen whose names I can mention, who have all added luster to their own names and great honor to the judiciary of Cook county.

Now, then, do not let us have any more talk about someone coming down here and saying we cannot select judges. We have had a lawyer picked out by the President of the United States and given the highest judicial position ever conferred upon any man, Chief Justice of the United States Supreme Court, that was Mell Fuller. He came from Chicago, and if he was alive now and a measure came before him by which you could make him about one-fiftieth of a man, and he was a member of such a Constitutional Convention, what do you think he would do?

Now, gentlemen, it may be there should be a starting point somewhere in reference to representation in the General Assembly, not because there is any danger of Cook county running away with the State or perpetrating a great wrong upon it, but because we must keep down to some extent at least the members who would constitute our General Assembly, and you have got to do that on the basis of either representing the voter, or on the basis of giving the representation to the population. I haven't any suggestions now to make except to say that it does seem to me we ought not to lose sight in our conferences to deal honestly and fairly with all parts of this State. We ought not to lose sight of the fact that even a minority or the voice of a minority in every deliberative body of the State ought to be heard, to the end that the people are to be contented, whether they prevail or not when they have had a voice in the doing of the thing. This Convention is composed largely of members of the bar, and I daresay there is not a single lawyer in this House who has not at times been impelled to appeal a case, not so much because he was dissatisfied with the outcome of it, but because he was dissatisfied with the way and the manner that the particular judge acted, and because he did not get a hearing. So, the very moment you take away from the citizen the right to a hearing, the right to be there, the right to do the thing, that very moment you sow the seed of discontent and make a bad citizen out of him.

We, I am sure, will be able to reach proper conclusions if you vote down this majority report and then take the matter up again in some other form where we can at least meet upon a common ground, all as men, and talk the matter over in a proper and sensible way.

Mr. DIETZ (Rock Island). I offer the following motion and move its adoption:

Resolved, That this committee recommend to the Convention that the subject matter of section six, seven and eight of committee proposal No. 366 be referred by the Convention to a conference committee of eleven delegates to the Convention, composed of five members from Cook county, five members from counties other than Cook, to be appointed by the president, and of which committee the president shall be chairman, for consideration and report.

It is quite plain that the delegates from downstate and Cook county desire to meet on a common ground, and it is also plain that with a proposal as it now stands, it is impossible for them to meet upon a common ground. There can be no harm in following the course suggested by this resolution. It will afford an opportunity to reach the common ground which it is apparent all of the delegates here desire to meet upon. One thing is certain. We are all getting tired, the debate has been somewhat bitter, somewhat plain, and has demonstrated the necessity of adopting some such course as this. I move the adoption of the resolution.

Mr. HULL (Cook). Before replying to this resolution, I would like to know whether it is a motion made on the part of the followers of the majority report, knowing that the majority report cannot pass now?

Mr. DEITZ (Rock Island). No, it is not.

Mr. HULL (Cook). I think we might as well go to the mat on the majority report, and beat the majority report. I see no sense in compromising before the issue on this report is made plain. I want to say to you I am confident the majority report can never pass this Convention, and if it should pass this Convention, it will break up this Convention. If the members present who present this majority report are willing to recognize that it cannot pass, I would be willing to vote for this resolution.

Mr. RINAKER (Macoupin). Will the Chicago gentlemen recognize that the proposal presented this morning is defeated and cannot pass?

Mr. HULL (Cook). I will not personally recognize the defeat of the minority report unless something is put in its place and approved as a substitute.

Mr. FIFER (McLean). It seems to me this matter is a little out of place. This discussion, as I understand it, was certainly not closed. At the close of the debate, if anyone wanted to move for an opening, it might be done.

Mr. O'BRIEN (Cook). Mr. Chairman and gentlemen of the Convention: As I view it, the theory advanced by the proponents of this majority report is that "Might is Right"—we have the votes and are going to "Put it over."

I am not ready to believe that men of this Convention in sufficient numbers, are so lacking in fair mindedness as to lend encouragement or their votes to this theory.

My association with members from "down state" for many months convinces me that this attempt at unfair discrimination against Cook county will meet with the rebuke it deserves from men of demonstrated high ideals, who believe in "fair play."

The majority report seeks to disfranchise large numbers of toilers in the shops and offices in great industrial centers and attempts to destroy and deny the right of a minority party to participate, to any fair proportion, in the legislative deliberations of the State through the elimination of minority representation.

This program is manifestly unfair—cowardly—and approaches indecency and should merit the contempt and resentment of all men of honest intentions.

Shall we destroy all the effort put forth in this Convention by its members during the past six months? Shall we weaken the confidence of the voters, to whom this document when completed will be submitted, to the extent that your arbitrary and vicious attempt will be so repulsive that those of large industrial centers will repudiate in no uncertain way the wrong you are inclined to submit them to?

I caution you to hesitate—I caution you to think well before you destroy the good will of a great part of our citizenry affected and who will have to be reckoned with later.

I want to go on record as vigorously opposed to this majority report and hope that it will meet with the disgraceful defeat which it deserves.

Mr. REVELL (Cook). With the statement of the gentleman from Cook, Mr. Wilson, and the gentleman who has just taken his chair, it seems we have come to a situation where upon certain action by this committee, it would be the end of their work in this Convention, that is, in the event of the proponents of the measure being here in sufficient numbers to pass the majority report.

When we meet a crisis like this, and there are very serious possibilities which may affect the Convention itself, I believe it wise to take advantage of such possibilities as lie on the safer side.

I don't know whether or not there is a majority already pledged for or against this issue. Sufficient has been said here today to justify one in saying that the matter is a fine one to talk on, on either side. There have been splendid speeches made upon both sides of this great question. It is one of the problems we have been sent here to face. If we shall simply lie down upon it, because it is a problem, we shall be unwise. I think we are big enough to work it out. If, however, we say it must go one way and there are sufficient numbers to carry the proposition, the people of Cook county will never stand for the majority report.

I have passed among and spoken to members on this floor, and while apparently on both sides of the question, they speak for record as though there can be no compromise; individually they say a compromise is possible.

I am not here to speak for those who propose or those who are against the majority report, but I have a right to speak in this Convention for myself. I have a right to say it would be a pity, it would be a disgrace to waste the five months of time that this Convention has given to the formation of a Constitution. If, upon the statements as made, we should proceed to a vote, and then find by some chance, I know not what the chance is, that the proponents of this proposal may have a majority; it would be a mistake, because of the position taken by valued members from Cook county.

Now, Mr. Chairman, it seems to me that we can on both sides give way a little; if we can re-refer this matter to such a committee, as contained in the motion of Delegate Dietz, we can still continue to hope and try to do something.

Do you mean to tell me that the people of the State of Illinois, taking the situation exactly as it stands at this critical moment, will justify the delegates to this Convention in lying down on this proposition?

I would like to see this matter either re-referred to the committee for another report, or, better still, to pass the proposal made by Mr. Dietz.

Mr. LOHMAN (Cook). I know everyone from Cook county will want something to say on this matter, and I am willing at this time to rise and report progress, if we want to continue on in the morning.

I will make my remarks now, and if someone wants to follow me, with that sort of a motion, all right. I think the majority of the members of Cook county are opposed to sending this matter to a committee at this time until they are heard. I consider this majority report as a slap at the people of the City of Chicago and Cook county, and an insult to every Cook county delegate in this body.

Mr. REVELL (Cook). I believe there is a motion before the Convention.

Mr. DIETZ (Rock Island). If it is only for what he says, I will withdraw the motion until all of the delegates are heard, that desire to be heard.

CHAIRMAN SHANAHAN. Motion withdrawn. Proceed.

Mr. LOHMAN (Cook). The proponents tell us that this is a proposition to limit Cook county, but to my mind they go further, they take away from us representation in the lower house. We now have thirty-seven and

one-half per cent in the lower house, and under this proposition they want to give us thirty-three per cent, and there is not a chance in the world to ever get that over thirty-five per cent on the ratio basis that they propose.

I don't see how any delegate representing Cook county can go back to his constituency and support a Constitution with a proposition of this kind in it. I have a letter before me from the Woman's City Club of Chicago, in which they say:

"The Woman's City Club of Chicago (4100 members) desires to urge upon the Constitutional Convention its opposition to a proposal for representation in the legislature on a territorial basis. Our government is a government of the people, by the people, not by the land.

"We have long shared in the effort to secure a new Constitution. We trust that the Convention will not include in its final proposal a provision for representation in the legislature which will discriminate against the city voter. It is safe to say there will be no similar proposal to limit the city dweller's privilege of paying taxes.

"We feel that nothing will tend more effectually to defeat the Constitution than the feeling on the part of any group of voters that another group seeks to deny it equal representation."

Mr. WOLFF (Cook). I have listened to the distinguished gentlemen in their various talks, and Judge Cutting and Mr. DeYoung express my sentiments in regard to this proposition. It appears to me that this proposition, instead of providing for representation in the House of Representatives and the Senate according to population or taxation or according to wealth or agricultural production, simply provides for apportionment according to square miles, and it further appears to me that in my opinion it would make a Mason-Dixon line out of the Cook county line, and if this passes I don't see how I could square my conscience by taking any further action in this Convention.

Mr. MICHAELSON (Cook). The only excuse, Mr. Chairman, that I have been able to gather for the calling of this Constitutional Convention is this proposition of placing a limitation on the representation in the General Assembly of Cook county.

For a number of years the members of the legislature have disregarded their oaths of office in this particular, and now there is a desire on the part of certain interests outside of Cook county, if you please, to put the legal stamp of approval on the action of the General Assembly in this regard.

In playing poker, sometimes it is policy to make a bluff. For six months almost we have been hearing nothing else from downstate than "Cook county representation must be limited." We are facing a proposition today here squarely, and we ought to have a vote on this question. This is no time for a compromise. The fight has been carried to the members from Cook county. We have made our demonstration and we are entitled to a showdown. I do not intend to submit to any compromise at this time. Let us count noses, let us see where we are, let us call the bluff, and let us go through on some other line if that bluff does not stand up.

No man from Cook county can go back and face his constituents should this proposition pass and become a part of the Constitution, and advocate its passage. There are 300,000 people living in my district, a district which I in part represent; those 300,000 people want an expression from me regarding this Constitution and its provisions, and if I betray that constituency, and I submit to a vote without resistance such a proposition as is offered here, you can realize my position before my constituency. And every member from Cook county is in the same position. We must fight the encroachment that is presented, and we must show, we must clearly demonstrate to the down State delegates that we cannot submit to taxation without representation.

I was in hopes, Mr. Chairman, that this discussion could have gotten by here today without any acrimonious remarks against the City of Chicago or against its Mayor. I am sorry to say that some delegate made

a remark inadvertently which I believe he is sorry for, at least I am sure that he spoke without knowledge in the matter. If this delegate or any other delegate is personally acquainted with the Mayor of Chicago, he would not make such a remark, but if he takes his knowledge of the quality of patriotism and the good citizenship of the Mayor of Chicago from the Daily News or the Daily Tribune, and gets it from no other source, I can easily see where he makes that kind of a remark to this assembly.

We cannot get anywhere by insulting the Mayor of Chicago or the citizens of Chicago. In the due course of time when a copy of the Constitution is presented to his honor, the Mayor, for his perusal, I expect after studying it carefully he might have something to say regarding that Constitution, as a fit Constitution for the people of the State of Illinois, and I hope when it is presented and when all of the people of Cook county and Chicago are given a copy of that Constitution to read over carefully, it will be a Constitution upon which they can give their approval; if not, then our work has gone for naught, and if this is the parting of the ways, let us have a showdown now.

Mr. MILLER (Cook). I think it is for the best interests of all that we do now rise and report progress.

CHAIRMAN SHANAHAN. The Committee of the Whole has arisen and will report progress.

(President Woodward presiding.)

MR SHANAHAN (Cook). The Committee of the Whole desires to report that the Legislative Department's report has been under consideration and they desire to meet again.

(Report adopted.)

Mr. MORRIS (Cook). I move we adjourn until nine o'clock tomorrow morning.

Motion prevailed and the Convention adjourned until Thursday, June 17, 1920, at nine o'clock a. m.

THURSDAY, JUNE 17, 1920.**9:00 o'Clock A. M.**

Convention convened pursuant to adjournment.

The President in the chair.

Prayer by the Rev. J. G. Wright, Grace Church, Greenville, Illinois.

THE PRESIDENT. The Journal for Tuesday, June 15th, 1920, has been placed on the delegates' desks, and if there are no objections, it will stand approved. It is so ordered.

Mr. MICHAELSON (Cook). I have a petition here from the citizens protesting against the reading of the Bible in the public schools, and ask to have a reference to the proper committee.

THE PRESIDENT. Referred to the Committee on Bill of Rights.

Mr. CRUDEN (Cook). I have a similar petition.

(Same reference.)

Mr. MOORE (Macon). I have a similar petition, Mr. President.

(Same reference.)

Mr. CORLETT (Will). Mr. President, I have a similar petition.

(Same reference.)

The PRESIDENT. There being matters pending on general orders of the day, the Convention will resolve itself into Committee of the Whole, to act on general orders, and the chair designates Delegate Dunlap to act as chairman of the Committee of the Whole.

(Chairman Dunlap presiding.)

CHAIRMAN DUNLAP. The Committee of the Whole will be in order, and the secretary will read the minutes of yesterday.

Mr. SUTHERLAND (Cook). I move the reading of the minutes be dispensed with.

(So ordered.)

Mr. BARR (Will). Mr. Chairman, as to the matter of the report of the Legislative Department that has been up for consideration, I believe we would probably save time by passing that question for the time being and taking up some other subject for consideration.

The sub-committee has some matters under consideration that I think it will desire to present to the Convention, possibly in the way of an amendment of the report that has been made. I think the committee will be ready to make some suggestion or presentation to the Committee of the Whole during the day, probably at the end of the recess period after lunch, and I therefore move you, Mr. Chairman, that the further consideration of the report of the Legislative Department, or at least the report of the majority of the committee, be passed temporarily.

Mr. HAMILL (Cook). May I ask the gentleman if the matters under consideration are such they are likely to meet in some measure at least, the objections raised yesterday to the report of the committee?

Mr. BARR (Will). Of course they will not meet all of the objections

Mr. HAMILL (Cook). No, I said in some measure.

Mr. BARR (Will). Perhaps it will in some measure; it is work along that line that the committee has in mind. I think it will meet in some measure the objections that have been made.

Mr. CUTTING (Cook). If this matter goes over, I would suggest that it go over until Tuesday morning. It is necessary, absolutely, that some of us shall leave today. I am leaving because of the very serious illness of my wife. I must go home. There are many of us, I am sure, who would like to be here when that matter is considered. I cannot stay, and there are some others in a similar situation. I am staying here contrary to

what I ought to do now. If it goes over during the day, I shall have to miss it. Of course that is only a personal matter, but I make the request it go over until a later day, if it goes over at all from this morning.

Mr. BARR (Will). I suggest at the present time at least that the understanding be that it be taken up this afternoon, and if there are one or two gentlemen who find that they have to be away, perhaps they will convey to us their desire that the matter be deferred further, and if it seems desirable it can be deferred.

Mr. CUTTING (Cook). Well, I am told by my colleague from Cook that there are reasons why this matter ought to be heard today, and after that under no circumstances would I interpose my personal objection. I withdraw it.

CHAIRMAN DUNLAP. The question, I believe, is on the motion of the delegate from Will that further consideration of the majority report of the Legislative Department be postponed temporarily.

Mr. TRAEGER (Cook). On the legislative matter, why not proceed with that if we can this morning, or otherwise I would suggest that we put it over until next week, because there are six or eight members of this Convention that are leaving on the afternoon train.

Mr. BARR (Will). I would like to say, Mr. Chairman, that this suggestion on my part is not made with the idea of taking advantage of any of the gentlemen who might find it necessary to leave, but rather with the idea that we may be able to work out something which will be very much more acceptable to the delegates generally than the proposal seems to be at the present time. If it can be taken up today, I believe it would be very desirable, as a great many delegates, or a number of delegates, will not be here next week, and it seems to me it is a matter of such importance that it ought not be deferred for a period of two or three weeks, and I believe, if possible, it should be taken up for further consideration today.

I also suggest, Mr. Chairman, that I believe the further consideration of this matter at this time would probably be a waste of time rather than result in any progress.

Mr. SHANAHAN (Cook). I hope the suggestion of the gentleman from Will will be accepted by the house, and that it go over until this afternoon, and if the sub-committee can offer some other proposition, we will gain time, and if there is then no serious objection, the matter can go over to a later date. I think we ought to make such headway now as we can.

(Motion adopted.)

Mr. MOORE (Macon). I rise to a question of personal privilege. Yesterday in the debate I used the expression, "The Sixth German city in the world," in reference to Chicago. In using that expression I had only in mind the fact that there was a large population, foreign population, in the City of Chicago, and the words simply slipped off my tongue, and instead of saying "a large foreign population," I said "the sixth German city." I did not say "pro-German city." I had no reference to the patriotism of Chicago in any way, and I hadn't in mind at the time the use of the words in connection with any politician or any official in Chicago, as to meaning a political slam at him.

I am informed that the Mayor of Chicago denies that he ever said that Chicago is the sixth German city in the world. I must accept that statement, as it comes to me from the gentleman who so courteously referred to the matter yesterday afternoon. I want to assure my friends of Cook county that there is not the slightest bit of animosity in my heart for the City of Chicago or towards any group of citizens in Chicago, nor have I any feeling against Cook county, and I do not stand here as the opponent of Chicago as such. I am interested only in the interests of the whole State of Illinois.

I hardly think it is worth while to refer to the abusive remarks that were made with regard to malice, and so forth. I believe that this Conven-

tion fully understands that I am not actuated by malice, or any petty political ambitions or prejudices in any position I take in this connection.

Mr. REVELL (Cook). In order to clear up any misapprehension, in view of the fact that I endeavored to attract the gentleman's notice to his statement, I just wish to say or to ask him: "He did not have reference in his statement just made as to giving him the information that the Mayor of Chicago never said that?"

Mr. MOORE (Macon). No, sir.

Mr. REVELL (Cook). That is all; I wish to be made clear.

Mr. MOORE (Macon). It was the gentleman from Cook who challenged my statement in a courteous manner, and I am very glad to make this statement on that account.

CHAIRMAN DUNLAP. The order before the Committee of the Whole was the matter of rural credits, it is the unfinished business of the day. If there is no objection, we will proceed to take under consideration that report. I will ask the delegate from Iroquois to occupy the chair for a moment while I present an amendment to that report.

(Chairman Goodyear presiding.)

Mr. DUNLAP (Champaign). There seemed to be some objection in the minds of members yesterday when we were discussing this matter that to leave this matter of credit of the State entirely with the General Assembly was perhaps conferring too great authority. In order to meet that objection and show that the Committee on Agriculture considered that this is not a farmer's question, they are willing to have the people of the city take an interest in this matter, as they undoubtedly will, and determine whether this procedure will come about, and that is why I offered the amendment yesterday which provided that no indebtedness should be incurred until it had been voted upon by the people of the State at a general election. The suggestion was made at that time on appropriations. It did not cover the matter of appropriations, and as a matter of fact, it was so intended, not to cover them, because the matter of appropriation by the General Assembly would be inadequate, a bond issue would be necessary if such a thing was done, so I have amended the proposition here, which I will offer, which will include the matter of appropriations as well as the matter of expenditures.

While I am here on the floor, there is no need to take up unnecessary time, I want to read you what was in the paper this morning. Some of the members, I fear, of this Convention, do not consider this matter in as serious an attitude as they should. Here is an article by Arthur M. Evans. He says:

"American farmers are the one great group that does not register a slump in individual output during the post-war sag. No diminished manpower efficiency here! With crops coming along a-boming, the supply of hired farm labor is 12 per cent less than in 1919, and 28 per cent less than before the war, according to the latest estimates.

"The agricultural regions are shrieking louder than ever for workers, while to keep the country's bread basket filled the farmers are turning night into day by aid of searchlights and are combatting the labor shortage by putting in longer hours themselves.

"In DeKalb, Peoria and other Illinois counties tractors are kept going all night long. According to reports received by the Illinois Agricultural Association, many a husbandman for weeks past has been making an eighteen or twenty hour day of it for himself. The fight to keep America's larder stocked this year seems to be an even more epic struggle than it was in 1917 and 1918."

I read that simply to show the conditions that exist on Illinois farms. Coming down the other day, between here and Flora, in a good county, I saw hundreds of acres of uncultivated land, due to the shortage of labor. Now, the people of the city are interested in this just as much as the people of the farm, and it is a State-wide question. The matter of class legislation, it seems to me, is rather a far fetched idea, when it is one of

the fundamentals of our Government that the people must have food, and it is the duty of the State to see that the fertility of its soil is maintained and production increased to the limit.

Now, those are things, it seems to me, that concern us as members of this Constitutional Convention. Surrounding states, as I said yesterday, are going into this plan of financing the farms in long time loans, and it is a matter that will attract the farmers of this State into those territories. Canada is doing the same thing on a countrywide scale.

Now, if Illinois does not leave the way open in this Constitutional Convention for the people to pass upon something of this kind, if the situation becomes more acute than it is now, I think we are making a very great mistake.

Now, it is the sentiment of the Agriculture Committee, who have considered this matter, that the organization of corporations for the purpose of financing the farm situation, should be undertaken by the legislature in the first instance. Well and good, it will not be necessary to call on the State for its supervision and credit, but if such becomes necessary, and we find our farmers are considering leaving Illinois, and that our fertility is going down and the production is less, then it does seem there ought to be some remedy for that, and it will be submitted to the people by the General Assembly for that purpose.

Now it is called paternalism in the minds of some people. We have paternalism in our Government, to the extent that we educate our people and make them better people. We tax your property and my property, in order that people who are poor and who cannot afford to send their children to private schools may have the benefit of public schools. No one complains of the benefits under that law. We have another form of paternalism in this State, if it may be called paternalism—there are certain kinds of paternalism—we have paternalism in the home, there is a paternalism which gives a portion to the children, or everything which they wish, everything they wish to spend, and the children grow up under such paternalism so that they are not good citizens. Then there is a different kind of paternalism, like on some farms where a man, to encourage a boy or girl will say, "That calf is yours," or "That nice young colt is yours," and the boy and girl takes great pride in that, but when it grows up and goes to the market, the money for it is put into the bank, not put into the bank for that child, but into the family bank. That breeds discontent and is unwise.

There is another kind of paternalism for the home. The father thinks that if he goes down and raises enough money to clothe the family, that is all he needs. He is indifferent to the needs of his children. The wisest form of paternalism is that which will encourage the son in all useful lines of work, so that when he grows into manhood the father can say, "Here are a few thousand dollars; invest that for yourself in some enterprise that will be of interest to you," thus giving him a start in life. Now, this is a State paternalism, in that it gives the man on the farm, or the young man in the city who wants to go on the farm, an opportunity to become interested without having wealth, which is necessary under the present conditions. The object of this, as I said originally, is that of making a long time loan. The farmer who buys a farm on a short time loan must be very well heeled, as the saying is. He must have money sufficient up to at least fifty per cent of the value of the farm, and in our rich Illinois counties he cannot get a loan over \$125 an acre, so it puts a burden of seventy-five per cent cash payment on the loan before he can become the owner of it. So those are the things which interest this Convention, so I hope they will adopt the amendment to the proposal. I offer this as a substitute for the amendment offered on yesterday.

Mr. GRAY (Adams). Gentlemen of the Convention: I will not detain you very long in my remarks. I would be very glad indeed if I could have the attention of the delegates to this Convention for just a few minutes. I know you are interested in this question. It is only a question whether

you have given it consideration. I believe every delegate in this Convention wishes to do the very best thing possible on everything that comes before the Convention.

I was born and reared on a farm, and grew to manhood on a farm. I have lived in the country all my life; farming and farming conditions have always been a question under consideration with me.

As a member of the Agricultural Committee, the first thing that the committee decided was whether or not this proposal was class legislation, and I wish to disabuse the minds of all the delegates of this Convention that there is any spirit of class legislation in this proposition, and in order that we may see from that standpoint, let us take Illinois and separate it from any other land consideration and take it and place it, as it were, in midocean, so that the people of Illinois and its population would be dependent entirely upon the soil. Under present existing circumstances, it is true we can exchange commodities, but if placed as I have suggested it would be necessary for the farmers to produce on that land everything that was known and necessary for their citizens, and just as soon as that was done, the people of Illinois would realize that the farming land of Illinois belongs to them, to the State at large, that they were all dependent on the products of the soil.

Now, that being the case, everything that goes to the preservation of the soil, or which has to do with its productivity, is a matter of interest to the entire State, irrespective of their occupations. If they are farmers they have to produce the things that are necessary for living, and if they are engaged in other occupations they are dependent on those products.

So, the man in the shop or in any occupation whatever is just as much interested in the farm loan as though he was on the farm himself. But it is from that standpoint I wish first to have you understand this is not a class matter, it belongs to all the people in the State, therefore all of the people of the State should be interested in the conservation of the soil. As it is proposed, it does not provide that any farmer shall have any opportunity over any other individual. Any individual from any other occupation may return to the soil and engage in farm production if he shall choose. It is that point and that particular spot that I wish to call to the minds of the delegates, if there was such a thought that there was any element of class legislation in it.

I might go on and supplement that by other illustrations, but I think the illustration I have given will clearly illustrate to the delegates that the farming lands of Illinois belong to all the people of the State and all of the people of the State, irrespective of their occupations, should be and are interested in the cultivation of the soil.

Now it has been shown by Senator Dunlap and others that too large farm tenancy would result in reducing the productivity of the soil. A man moves onto a farm to stay a year or two and wants to get the most out of that farm that he can, before moving on; therefore, the larger the ownership of land, the greater the tendency to maintain the productivity of the soil.

I could go on for an hour here on that line, but I want to assure the delegates that if I believed there was any class legislation, I would not vote for it, but I believe it is one of the most necessary pieces of legislation introduced in this Convention, and I want to assure you if this Convention passes and endorses this proposal, we will see from the public press hearty endorsements, not only throughout the State, but the entire country. The Chicago Tribune, when this matter was under consideration a few weeks ago, wrote a very sensible and able article in harmony with its provisions. In passing this matter, I am sure you will make no mistake.

In the first place, this is left entirely with the legislature, even further than that, before any action is taken it must be submitted to the vote of the people. There is no danger of getting into trouble and embarrassing the State and giving the farmers—I say the farmers because they are back of it in this sense, that they want to conserve to all people of the

State the land in its most productive condition, and they ask for this, not for their own benefit, but for the benefit of the entire State, and I hope this Convention will endorse this proposal.

Mr. FIFER (McLean). It seems to me this proposition is not without merit, and it is nothing new in this country. Some of the states down East, especially New York, if I am correctly informed, have taken hold of their run down and abandoned farms and are now bringing them up to a high state of cultivation by a commission appointed by the Governor of the state, and it is the duty of that commission also to get tenants, and they are traveling over this Northwest country of ours offering large inducements to persons seeking farms and homes in the country to move to the State of New York and occupy those farms.

Very reasonable terms are offered.

It is the duty of that commission also to watch incoming vessels bringing immigrants to this country and secure, in as near as they can, the best elements of those people for places on their land.

We all know that agriculture is the foundation stone of all of our prosperity, of our very existence, for that matter. Mankind only needs three things to live, air, water and food, and two of those we have without cost. The rest we have to have. We can live without clothes, without houses, without places of habitation, but we must have food, and it should be the paramount object of every state in the Union, it seems to me, to see to it and see to it well that the agricultural interests of this great, big country of ours are well seen to.

Now, there is absolutely no danger in this proposition if it carries in its present form, when it is to be submitted along with the other propositions in the Constitution if I understand the question in this proposal, but it cannot go into effect until it is re-submitted to the people after they have an opportunity to investigate and look into it.

It will please the farmers of this State, it will manifest to them that this body has some little interest in what they are greatly concerned about.

I shall vote for the proposition, and I hope to see enough join me to carry it.

Mr. REVELL (Cook). Mr. Chairman, I would like to have some matters cleared up on this proposal, before I would vote one way or the other upon it.

I would like very much to extend a hand to those who perhaps are working or willing to work the soil of Illinois. There are a few doubts, however, which come to my mind, and I express them without intending to express opposition. I simply want to know.

For example, the delegate from DeKalb in the splendid address he made the other day on this same subject recounted the woes of the farmer, or of many of them. He told us how impossible it was under some of the existing conditions to make a success. He told us how in one place, I think in the locality where he lives, where some years ago there were twenty-two or more farmers having children in school—and you will correct me if I misstate the matter—that there is only now one family working its own farm having children in the school in the present year. Now, this is not a solitary instance, and is a statement of fact. I don't know whether the proposal before the committee at the present moment is the proper solution, but I for one would be extremely anxious to help.

But the gentleman followed it with this statement, if I recall his words accurately, he said the cause of all this is lack of knowledge of the science of farming. Now, I do not wish to leave the impression that I want to read into his words what was not in his thought, but if he meant what was said, I do not see how pledging the credit of the State of Illinois is going to place an accurate knowledge of farming in the hands or heads of the farmers. I leave that for those who are the proponents of this measure to develop.

Another feature which may be easily explained, and that is the only reason I am stating it, that is it seems to me as presented if this proposition

be enacted into the Constitution and later adopted by the people, by and with the assistance of the Assembly, it might be an excellent machine in the hands of unscrupulous politicians. It might be an excellent place wherein such politicians, whether they be appointed or elected, would get in a position to assist many who would not be as worthy of help as others seeking such loans.

Now, I would like to have these questions answered. It is very possible they can be, and if the criticisms can be adequately answered, even if not entirely so, I am not standing in this Convention, demanding one hundred per cent of anybody on any question, because we will get nowhere if we persist on that basis. There is nothing one hundred per cent perfect in any part of life that I have ever come in contact with, whether it be business or farming. If we can find enough that will seem meritorious, with which we may extend the hand of help to these people in order to bring the men and families back to the soil and away from the cities, I am one who is willing to stand for it, whether it be termed class legislation or any other term that might be applied.

I want to say, without committing myself at this moment, that my mind is open. If these questions are fairly answered, I shall vote for the proposition when it comes to be presented for the vote of this committee.

Mr. DOVE (Shelby). The last inquiry of the gentleman from Cook has to do with any credit system the legislature may in its wisdom devise, and it is not a valid objection, in my opinion, to condemn any act simply because it might not be effectively and efficiently administered.

The fundamental purposes of all rural credit systems are twofold, first to increase the amount of production, and secondly, to conserve the fertility of the soil. So that while the direct object may be to afford a means whereby any man of industry, energy and character may acquire the ownership of a farm on long time payments, it is these fundamental purposes in which all the people of the State and nation are deeply interested. All recognize that the most salutary and desirable condition for the State and nation is for the owner of the farm to reside upon it and it has been demonstrated time after time, and statistics have been given to this committee proving conclusively that where the owner himself resides upon his farm, that means increased production and it means that the soil that he tills, the fertility of it, will be conserved. All of these objections that have been raised to this proposal and especially the objection that it is class legislation were raised and successfully disposed of in the Federal Congress when the Federal Farm Loan Act was up for discussion and upon final passage this Federal Act received the unanimous vote in the Senate of the United States and all but twelve votes in the House of Representatives.

The Federal Farm Loan Act, however, does not solve the problem. It has been a benefit to many but in order to place the ownership of the land in the person who tills the soil it is necessary that the Federal Farm Loan Act be supplemented.

The teachings of history and the best precedents from other American states and foreign countries should not be ignored, but should be a guide to our action. I recognize that our action here will be radical so far as Illinois is concerned and I know the opposition that this proposal will receive, for there are some here whom I know are constitutionally opposed to making any very radical departures in our fundamental law but the results that have been obtained in other states and countries where rural credit systems have been adopted should be worthy of some consideration.

In our own country there are only four states whose previous action along these lines should guide us, California, North and South Dakota and Oregon.

California has provided a fund through which the state buys large tracts of land and sells to small farmers on easy terms which has worked successfully and advantageously in the development especially of fruit farms.

The South Dakota constitutional provision concerning this subject is expressed in section 1, article 13 of the Constitution of that state, and provides "the state or any county or two or more counties jointly, may establish and maintain a system of rural credits and thereby loan money and extend credit to the people of this state upon real estate security in such manner and upon such terms and conditions as may be prescribed by general law."

In 1917 this section was made effective and within two years more than \$10,000,000.00 was loaned on the farm lands of that state. The law provides that 70 per cent of the appraised value of the land and 40 per cent of the insured value of the improvements may be loaned not to exceed \$10,000.00 to any one person. The interest rate varies from 5½ to 6 per cent. This law follows the general plan of the Federal Farm Loan Act except, of course, it makes it possible for the owner to borrow much more than he could under the Federal system. Now it has 5,818 loans, aggregating \$23,768,437.08.

In commenting upon the result of this rural credit law a writer in the *Prairie Farmer*, insists that it has helped the tenant farmer to buy land and that it benefits the farmers and the state as a whole; he further says:

"I found a great wealth of evidence that it is making land owners out of tenants, and that it is beginning to solve the question of farm finance for South Dakota farmers. South Dakota generally seems to believe that the law has been excellently administered and that it is of great benefit to the people of the state. They approve of Governor Norbeck's summary of it, which is:

"The rural credits system has reduced the interest rate on money borrowed on farm land from one to five per cent. It has standardized the system of borrowing money on land, so that longtime loans may be secured and the loan companies are even establishing the amortization plan of payment. Its low rate and easier terms are enabling the state of South Dakota to finance agriculture as it should be financed. Farmers are not the only ones who benefit, but all citizens of the state are benefitted."

North Dakota in 1918 adopted amendments to its Constitution providing that "the state may issue or guarantee the payment of bonds provided that all bonds in excess of \$2,000,000.00 shall be secured by first mortgages upon real estate in amounts not to exceed one-half of its value; or upon real and personal property of state-owned utilities, enterprises or industries in amounts not exceeding its value," and provided further, "that the state shall not issue or guarantee bonds upon the property of state-owned utilities, * * * in excess of \$10,000,000.00."

In 1919 the legislature under this provision established the Bank of North Dakota and made provision for the issue of real estate bonds, secured by first mortgages. From July 28, 1919, to December 6, 1919, this bank loaned \$1,700,000.00 and additional applications for \$1,300,000.00 had been approved. Only a few weeks ago the Supreme Court of the United States refused to interfere with the decisions of the Supreme Court of North Dakota upholding the constitutionality of this law.

In 1916 Oregon adopted a constitutional amendment, much of which is legislative matter and which puts in effective operation a rural credit system in that state.

A proposed constitutional amendment will be submitted to the people of Kansas at the general election in November of this year. This proposed amendment is as follows:

"To encourage the purchase, improvement and ownership of agricultural land and the occupancy thereof, provision may be made by law for the creation and maintenance of a fund, in such manner and amount as the legislature may determine, to be used in the purchase, improvement and sale of lands for agricultural purposes. The legislature may provide reasonable preferences for those persons who served in the army and navy of the United States in the World War and holding honorable discharge therefrom."

A number of states either by constitutional grant or by legislative authority provide for the loaning of school funds to individuals securing the payment of the same by first mortgages. Illinois has such a legislative provision. New York, New Jersey and Wisconsin formerly made state loans, but abandoned the system because of unfavorable experiences, slump in land values and lax administration. Such briefly is the experience of other states. No rural credit system has been in operation in the United States for a sufficient length of time to furnish a reliable guide to Illinois to embark in this business, and while rural credit systems have been successfully and satisfactorily operated in other countries, we all recognize that conditions are not at all the same.

In Denmark eighty-nine families out of every hundred own their own farms and such a condition has been made possible by the proper functioning of a splendid and efficient rural credit system, but there is the fullest rural cooperation and their land legislation has been in operation since 1899. In Denmark there is a state bank and five hundred thirty-six cooperative savings banks, and it is possible for anyone who can secure ten per cent of the appraised value of a given tract of land to acquire the ownership of that land upon a fifty year loan at 5 per cent interest. There are approximately, according to the circular No. 259, issued by the Illinois Department of Agriculture, 240,000 farms in Denmark, which average a little over forty acres each. Of these 240,000 farms, 68,000 contain less than $1\frac{1}{2}$ acres; 65,000 are from $1\frac{1}{2}$ acres to $13\frac{1}{2}$ acres, and 46,000 contain from $13\frac{1}{2}$ to 40 acres; while only 61,000 vary from 40 to 150 acres. I recognize that conditions are very different in Denmark from Illinois.

Between 1873 and 1893 in spite of the rapid expansion of population in New Zealand, the value of exports of all kinds of produce has increased very slightly. Agricultural development, although the most important, was not in a satisfactory condition, and the government decided that the only solution of the problem was to be found in the establishment of an adequate rural credit system. The various European agricultural systems were investigated, but none of them were found adaptable to the conditions in New Zealand, and in 1894 legislation was passed by Parliament which has been amended and is now known as the "state guaranteed advance act." The money is borrowed by the government and lent to the farmers, the rate of interest being one per cent more than the money cost and the rate averages about $4\frac{1}{2}$ per cent. This one per cent pays flotation charges, working expenses and creates a reserve fund which after eighteen years of operation amounted to a million and a half. During eighteen years there were only thirty-five foreclosures, practically no losses and the cost of administration and working expenses amounted to 14/100 of one per cent.

As a direct result of this act the export trade has expanded remarkably. At the time of the first legislation the per capita of domestic produce exported amounted approximately to \$40.00. In eighteen years this had increased to \$111.78, being the highest of any country in the world. In the same year Australia exported \$79.60; Canada, \$40.68, and the United States, \$24.14, and during this same eighteen year period population increased more in New Zealand than either the United States or Canada.

It is further claimed that as a result of this rural credit system there is a bank account for every two and one-half persons in New Zealand. They have a larger percentage of bank accounts and a greater amount of money in proportion to population than any other country in the world.

One of the Canadian commissioners who visited New Zealand, reports as follows:

"With money available on terms suitable to the industry, the farmers have built better houses or remodelled their old ones; brought a large acreage of land under cultivation that would otherwise be lying idle; have bought and kept better live stock; have bought and used more labor-saving machinery on the farms and in the houses; have erected elevated tanks and windmills; have laid in water in their dwellings and in their outbuildings;

have irrigation for their vegetable and flower gardens around the houses; and have increased their dairy herds. They keep more sheep and pigs and have so largely increased the revenue from their farms that they are able to meet the payments on the mortgages and to adopt a higher standard of living, and a better one. Throughout the country a higher and better civilization is gradually being evolved; the young men and women who are growing up are happy and contented to remain at home on the farms, and find ample time and opportunity for recreation and entertainment of a kind more wholesome and elevating than can be obtained in the cities."

Australia has a similar rural credit system; western Australia establishing the first bank in 1894, the five other states of the commonwealth following, the last in 1901.

Mr. Alexander Lucas, one of the British Columbia Rural Credit Commission, and author of the Rural Credit Act of that province, in speaking of the effect of the farm loan, says, "that in countries where long term farm loan systems have been adopted, there has been a marked improvement in the standard of living on the farms; * * * that the effect of such a system is to encourage productive effort; that the principle of state guaranteed loans or of loans of state funds has been recognized in New Zealand, Western Australia, South Australia, Victoria, Tasmania, New South Wales, Queensland, Nova Scotia, Saskatchewan, British Columbia and some of the other Canadian provinces." The provinces of Nova Scotia and New Brunswick were the first two Canadian provinces, having done so in 1912.

My attention only recently was called to an editorial in the Cleveland Plain Dealer which clearly points out the necessity for the American states doing something to keep their industrious and active farmers here in America. "The farmers require credit and know how to use it to their own advantage, and in the countries where rural credit systems obtain more than a billion dollars have been loaned and no loss has been made that was not provided for by the extra one per cent usually charged over and above the rate paid by the various rural credit administrative bureaus. The farmer requires credit just as the manufacturer and business man requires credit. This scheme is not socialistic and by placing this provision in our new Constitution it will show that those who have a part in writing this fundamental law realize that some steps must be taken to finance the farmer and have vision enough to look forward to the great advantage that will come to the State and to the nation if this acknowledged need is met.

The article in the Cleveland Plain Dealer is as follows:

CANADIAN FARM CREDITS.

While the United States is greatly disturbed because of lack of farm help and fear of decreased acreage and production, announcement comes from Winnipeg that 40,000 American farmers are expected to locate in Manitoba this summer. For years there has been a constant small exodus of our young men to Canada, attracted by her agricultural opportunities. But this year's emigration promises to be greater than the combined departures of the last half dozen years.

This is a situation calling for the attention of our department of agriculture, congress, and the public. It threatens to become a detrimental influence to our economic welfare rivaling the exodus from farms to industrial communities.

High rents asked for American farm lands is given as one reason for the increased migration this season. But there are other reasons more important. The young farmer naturally desires to be a land owner, rather than a wage earner. And, while this government has never until recent years done anything of consequence to assist men to purchase farm land, Canada has encouraged ownership for a long while. Only recently officers of our farm loan banks announced that, despite more than \$50,000,000 of approved applications for loans, none probably would be granted this summer,

owing to delay in the Supreme Court's action on the validity of the farm loan act. The farm loan banks were designed to encourage greater farming activities and have done commendable work. But now that they are temporarily prevented from giving further aid it is only natural that those anxious to own farms should turn toward Canada, where assistance is immediately available.

Coincident with announcement of the exodus to Canada comes news that Manitoba is to establish provincial banks to provide finances for rural credits. This is further evidence of Canada's foresight. We may learn valuable lessons in the interests of agriculture from our brothers north of the lakes."

The need is apparent. All recognize that the results sought are desirable. The advantages of long time loans are many. A five per cent \$1,000.00 loan will be cancelled by paying \$70.00 annually for twenty-six years.

The Great Republican Party in the National Convention assembled about a week ago took up this subject and after throwing out a few words commendatory of the farmer, a part of that platform I wish to read—this is what the Republican party a week ago had to say with reference to agriculture: .

"The farmer is the backbone of the nation. National greatness and economic independence demand a population distributed between industry and the farm and sharing on equal terms the prosperity which is wholly dependent on the efforts of both. Neither can prosper at the expense of the other without inviting joint disaster.

The crux of the present agricultural condition lies in prices, labor and credit.

The Republican party believes that this condition can be improved by practical and adequate farm representation in the appointment of government officials and commissions; the right to form cooperative associations for marketing their products, and protection against discrimination; the scientific study of agricultural prices and farm production costs at home and abroad, with a view to reducing the frequency of abnormal fluctuations; the uncensored publication of such reports, the authorization of associations for the extension of personal credit; a national inquiry on the coordination of rail, water and motor transportation with adequate facilities for receiving, handling and marketing food; the encouragement of our export trade; an end to unnecessary price-fixing and ill-considered efforts arbitrarily to reduce prices of farm products, which invariably results to the disadvantage both of producer and consumer; and the encouragement of the production and importation of fertilizing material and of its extensive use.

The Federal Farm Loan Act should be so administered as to facilitate the acquisition of farm land by those desiring to become owners and proprietors and thus minimize the evils of farm tenantry, and to furnish such long-time credits as farmers may need to finance adequately their larger and long-time production operations."

After commenting upon this latter paragraph, the St. Louis Globe Democrat editorially says:

"This quite succinctly expressed the real purpose of the act, or what should have been its purpose, but does not express what is actually being done. Agriculture in the United States is lagging for the chief reason that the men owning or working farms have not the capital necessary to equip them for a high state of productiveness. It is not ignorance of good agricultural methods, but inability to apply them which makes the net result per acre in this country so far below that of Europe. We have a Department of Agriculture which for years has been studying farm problems and issuing bulletins to farmers giving their solution. Our State agricultural colleges and experiment stations have been doing the same thing. County agents by the thousand are advising farmers all over the United States how to do better farming and produce larger crops, more milk and chickens and more and better livestock. The one thing they find as the chief obstacle is the lack of capital. The renter does not feel like expending money on the

development of the farm because he has no assurance of continued tenantry. He is even hesitant about improving the grade of his cattle for the same reason. The average owner who rents will expend nothing upon improvements. The tenant wants to own but has no capital.

A very large proportion of owners have only their land and a small equipment and inferior improvements. They do not possess the capital necessary to make the improvements without which increased production is impossible. The vast majority of farms require that the fertility of the soil be built up through a series of years of special treatment. They need draining, fencing, building of new barns and sheds, silos, and better machinery. They need the building up of the quality of livestock and increase in the quantity, with such a change in methods and policy as will make this possible. All this costs money, from \$500 to \$2,000 on the average. While they need this money as essential to making the farms a better paying investment, a large majority of them already have mortgages on their farms which keep them constantly on the anxious seat for fear they will not be able to renew them at the end of the short term for which they run."

There is one other thing I wish to speak of; that is, to first call your attention to those who sponsor or ask that this proposal be placed in this Constitution, and then to call your attention to those who are opposed to it. Who, then, are the sponsors of this proposal? The Illinois Agricultural Association, the farm journals, the various farm bureaus and the farmers themselves.

In opposition I have received a letter from the Illinois Bankers' Association which I shall take the liberty of reading:

"June 2, 1920.

"Mr. F. R. Dove,

"Care Constitutional Convention,

"Springfield, Illinois.

"Dear Sir:

"We take the liberty of addressing you in regard to proposal No. 361 for the establishment of funds to be loaned upon the security of farm lands in the State, presented by the Committee on Agriculture of the Constitutional Convention.

"In the opinion of a large number of the members of this Association, no other agency outside of those now existing is necessary to properly finance agricultural loans in the State of Illinois. The undertaking of this function by the State government would stimulate land speculation, encourage inefficient farming, because there would be no inducement for the efficient farmer to attempt to compete with those who would be required to have scarcely any investment; and would ultimately seriously involve the State credit.

"They also believe this proposal delegates too broad powers to the legislature, there being no limit or restrictions upon the amounts to be loaned.

"The Federal Government has provided a means whereby long time farm loans can be made on easy terms, which is available to all who would be benefitted by such a proposal. Furthermore, the banks in the State have at all times been ready to assist in the purchase of farm lands, loaning up to a reasonable amount, based upon the valuation of the property and the ability of the borrower, at equitable rates.

"We therefore respectfully ask that you oppose favorable action on this measure for the reasons stated.

"Yours very truly,

M. A. GRAETTINGER,
Secretary."

Immediately upon the receipt of that letter I replied to it as follows:

"June 4, 1920.

"Mr. M. A. Graettinger,
"Chicago, Illinois.

"My dear Sir:

"Permit me to acknowledge the receipt of your favor of the 2nd inst. in which you set forth your objections to proposal No. 361, concerning rural credits.

"If your association has an executive committee, will you kindly give me their names and advise me whether your association has taken any official action relative to the matter?

"Will you also advise me upon what you base your statement that 'the undertaking of this function by the State government would stimulate land speculation, encourage inefficient farming and * * * ultimately seriously involve the state credit'? Has the experience in other states and countries where rural credit systems obtain justify these conclusions?

"Is it not also true, that the Federal Farm Loan Act only makes it possible for a person who already owns considerable land or can command considerable credit, to increase his land holdings?

"You state that 'the banks in the State have at all times been ready to assist in the purchase of farm lands, loaning up to a reasonable amount.' Is it not true that the amount loaned by the banks seldom, if ever, exceeds fifty per cent of the valuation, and usually less than that?

"I am indeed glad you have written me upon this subject and I am very anxious to ascertain whether the country bankers, members of your association, have ever expressed themselves either favorable to, or in opposition of, a State rural credit system?

"Thanking you for the courtesy of an early reply, I am

"Yours very truly,

"F. R. DOVE."

In reply to this letter from me I received the following letter from Mr. Graettinger, Secretary of the Illinois Bankers Association:

"DEAR MR. DOVE: Since writing you on June first regarding Proposal No. 361, a referendum vote of our Committee on State Legislation and Administrative Committee has been taken (the majority of the members indicating their opposition to the measure for the reasons stated), which, according to our constitution, establishes the policy of the association

At the outset, allow me to state that this matter has been given consideration by these men not only as bankers, but as citizens of the State. It has been the custom to believe that when bankers take a position on any public question, it is governed by selfish motives because of their business, and this opportunity is taken to stress the fact that this is not a just assumption. However, it is their business experience which prompts their actions in all instances.

The Illinois Bankers' Association has shown by its previous actions that it has always been interested in agricultural development, and while protesting against the adoption of the proposal mentioned, it does so in a friendly spirit. It does not believe that the State should lend its credit to the furtherance of any business, and our opposition is based entirely upon this principle.

There is no question that farm tenants should be encouraged to become land owners, but in our opinion we see no more reason why the State should furnish the necessary capital to finance this than any other line of business.

If the present system of financing farm loans is not helpful, as would appear from your arguments, it would seem that some other plan could be devised to be operated with private capital and under State control. I am sure this association would be glad to cooperate in a movement of this kind, but it is not in favor of the proposal which has been submitted.

Yours very truly,

M. A. GRAETTINGER,
Secretary, Illinois Bankers' Association."

What I wish to say is I do not believe there is any opposition to this proposal from the legitimate commercial country banker. If it is opposed by anyone connected with the banking business, I believe it is opposed by the farm mortgage broker. I don't believe the country banker cares at all whether this proposal is placed in the Constitution of 1920 or not. It cannot interfere with the legitimate commercial banking business, and for that reason I went to our local bankers and asked them if there had been any action taken by the Illinois Bankers' Association upon this subject, and I was advised that there had not been, and then reply came to this letter which states that the policy of the Illinois Bankers' Association is determined by these two committees. Who are these two committees?

The Administrative Committee of the Illinois Bankers' Association is composed of three men, Leroy A. Goddard, President of the State Bank of Chicago, I believe, William C. White, of the Merchants' Illinois National Bank of Peoria, and our esteemed fellow-delegate, Charles H. Ireland, of the Washburn Bank, Washburn, Illinois. Those three gentlemen are the Administrative Committee of the Illinois Bankers' Association. The other committee to which a reference was had is composed of nine gentlemen, the chairman of whom is Mr. L. L. Emmerson, of the Third National Bank, Mt. Vernon, our distinguished Secretary of State, Mr. H. W. Austin, of the Oak Park Trust and Savings Bank, Oak Park; Mr. Charles Boeschstein, of the Edwardsville National Bank, Edwardsville; Mr. H. P. Castle, of the First State Bank, Barrington; Mr. E. E. Crabtree, of F. G. Farrell & Co., Jacksonville; Mr. H. F. Eidmann, of the Halsted Street State Bank, Chicago; Mr. Reed Green, of the First Bank & Trust Company, Cairo; Mr. V. W. Johnston, of the Illinois Trust and Savings Bank, of Champaign, and Mr. M. O. Williamson, of the Peoples Trust & Savings Bank, Galesburg.

Don't think for a minute, gentlemen, I discredit the high motives which prompted the Illinois Bankers' Association to oppose this proposal. I believe their opposition comes from a conviction that it is wrong in principle and they do not oppose it simply because they might to some extent be interested or that the effects of the statute might affect their business. I don't believe that, or think that for a minute, nor do I believe that any great number of city bankers or country bankers oppose this rural credit proposition. It seems to me there is a need of this kind, and it seems to me that an opportunity is being given to this Convention not to provide anything radical or unsafe or unsound, but simply to vest in the legislature of this State the power, if the demand arises, where they can take some steps that will lead and inevitably lead, I believe, into increased production and to the fertility of the soil of Illinois being conserved.

There is no question, gentlemen, but that the majority of this committee is in sympathy with the purpose and object sought to be obtained by this proposal. The only question is whether the results which we believe will follow will actually follow, and a further question as to whether it is safe for the State to go into the banking business upon such a scale as this. I am frank to say that the only perplexing question in my mind is the success or the efficiency with which any act that may be enacted under this provision will be subsequently administered. If it is administered honestly, there can be no question, gentlemen, but that the results which we hope to follow will follow from the establishment of a rural credit system in Illinois. On the one hand you have an expression from the Illinois Bankers' Association opposing this proposal, and on the other hand you have it sponsored by the Illinois Agricultural Association, all of the farming journals, the various farm bureaus of the State, and you and I have received letters from the farm bureaus asking your support for the adoption of this proposal. In addition to this it was sponsored yesterday by the delegate who is in truth and fact a farmer, and he speaks for them and speaks knowingly on this subject. I indulge in the hope that you who come from Cook county, who do not think you are directly interested in this proposal, will give to it the consideration which I believe its importance demands.

I believe you agree with me that the results sought are desirable results, and for one I am willing to clothe the legislature with the necessary power to put an effective rural credit system in operation in Illinois.

Gentlemen, don't allow Illinois to be the last to adopt such a plan, because in the states where it has been adopted, the influence is spreading to other states, and will continue to spread to other states in America when the results are shown which we think its adoption will accomplish.

Mr. DUPUY (Cook). My inclination would be to vote entirely in favor of this proposition if I permitted myself to be governed solely by my inclination. I was brought up on a farm and lived nowhere else until I had reached the years of manhood. I have a little farm in my own county now, and am pleased and proud to own it. It is not very productive, but I loved the soil of Illinois and wanted to get back to the rural districts as much as I could.

For thirty years I had lived in a big, crowded business city, and the appeal came to me every spring to own a piece of real estate somewhere in the country. I found a piece of property on the Fox river which suited me, and I bought it without my wife and daughter seeing it; it was a very beautiful place, but not a very commercial farm. They were unable to restrain their tears when they came and saw it for the first time, simply because of the impression of that strong desire to get back in the country among the trees, and have a garden, and live where the trees grow. We are all greatly delighted with the possession of the little piece of soil in the State of Illinois.

Now, my high regard for the chairman of this committee, for the appeal made by the last speaker, would strongly urge me to vote for this measure. Yet I believe it is fundamentally and vitally wrong. I do believe that, and I believe it with all the convictions that I can possess, that this is a step in the wrong direction, with the knowledge of conditions prevailing on the farm which they have portrayed to us, not enough labor, labor high priced, farm enterprise today extremely difficult for lack of help, no way of inducing help to come on the farm, to help take care of the crops; a big crop of hay on the farm perhaps in this season of the year, showers coming up from time to time, the danger of its being spoiled, and eighteen to twenty hours' work to put it under cover, the result of a year's farming in many cases. It is a very difficult situation, and it must appeal to all of us. There is no doubt but farming and the farm output and the increase of farm outputs is essential to the best interests of the country. But is that in itself and alone a sufficient reason why we should try so doubtful an experiment as this is? If we could be convinced that that difficulty was all going to be removed by extending the credit of the State, as here proposed, we might be induced to vote for it. It is quite one thing to say this condition exists, and quite another thing to tell us that you have a remedy that will certainly remove the difficulty. I have serious doubts about this proposed remedy removing the difficulties of the situation.

I left the farm when a very young man. I left the farm because I had greater opportunities in the city. Of course it was a good many years ago when I left the farm and we had no automobiles, telephones or hard roads, those things that limited our lives on the farm very much. But the young men today leave the farm because they find higher wages, they find a more attractive kind of life in the cities, shorter hours and more chances for enjoyment, music and all those things which appeal to the active young men. Especially is this true after the Great War, when nearly all of our young men have seen life in all its phases—and I am not blaming them for it—and they find it difficult to go back home to their humdrum life on the farm, with its heavy labor and long hours. That is where the difficulty comes in. The competition of high wages paid in the city, with the somewhat uncertain remuneration of the farm. The farmer does not know what he is going to get for his work. He may get something, and he may get nothing. It depends on the rain, the wind and the conditions that are

not under his control, with the certainty that it exists, but it is beyond the power of any man to prevent that condition of things.

The reason I say this principle is fundamentally wrong is because it proposes to extend the credit of the State to one particular class of persons. If there was any class of persons to whom I would want that done, it would be the farmers, for the reasons I have already indicated to you, but it is a very doubtful and unwholesome experiment, in my opinion, to extend the credit of the State of Illinois to help any particular class of persons, no matter how worthy or great the class may be.

I believe, Mr. Chairman, it would be of the greatest benefit to the State of Illinois if the thousands of coal miners, who work under trying conditions, who work in uncomfortable places, who work where the sunlight of day never comes, if they should each have a cottage with a garden upon it and a little place to till the soil and grow flowers and make life a bit attractive. We know the kind of dwellings in which these men live, for the most part, dwellings put up in a row, just like these desks here, about as much alike as these desks are, with none of the attractions which go with a home, not a bit of soil there, not any place for a garden, ordinarily. I think it would be to the advantage of the State, very greatly to the advantage of the State, if those men could own their own homes. They come here as foreigners, unacquainted with our language, unacquainted with our institutions, largely, and we undertake the burden, and it is a burden, and we undertake the responsibility, and it is a great responsibility, of making good American citizens out of those men. We could not do it any more effectively than by extending to these men a little help to get their own home, to provide a way by which their employment in a certain locality could be made somewhat secure and they would not have to move around from place to place, but they would have a modest place, a dwelling for themselves.

I believe it would be as much to the interest of the State that that should be done for that class of men as it should be that help should be extended to the farmer in the manner proposed by this bill.

This bill does not propose to give a farm to any man. It helps him own a farm, but the only public advantage which can come from this, as I see it, is increased productivity, which would result from the soil where the man owns it, from what would come from the place where he does not own it but works it. What that increased productivity is, I don't know. It would amount to some, beyond all question. I have no doubt it would be increased. I have no doubt the fertility of the soil would be preserved. There are a good many tenants in Illinois today. I know one of them lives on the little place I own, who finds it very much cheaper to rent at current rates than to own a farm. That is true all over the State. Still, I believe in the tenant owning the farm, if possible. I believe every tenant who is of abstemious habits and frugal will own a farm.

Certainly with the farms as high priced as they are today, the tenant can rent the farm to better financial advantage than he can own it. It is said, and consistently, that land selling from four or five or six hundred dollars an acre can hardly yield a sufficient income or return to make it profitable to own. Why is land so high today in Illinois? What made it have such an extreme upward tendency in price? Isn't it because there has been adjacent to the farms of Illinois, right at hand, big, growing cities where there is a great deal of consumption—if you be fair about it from down State—isn't it true that an enormous amount of value existing on the farms today has been put there by the increase of the city's proximity? The great markets where there was a great demand for the consumption of all sorts of farm products?

Bear this in mind, you cannot take money out of the State treasury without putting it in first, or subsequently at least. There can be no money extracted from the State of Illinois that is not put in there, and to put money into the treasury to accomplish the amount of loaning that will

be required by this Act, which will require an enormous amount of taxation for somebody to pay.

Along in 1838 and '40 and about that time, the State of Illinois, then a great, new, undeveloped, fertile territory, was very anxious for internal improvements of all kinds, and they nearly bankrupted the State in going into all sorts of investments, and the Governor of the State of Illinois said in sending his communication to the General Assembly when he came into office, and you can find this without difficulty in the messages of the Governors, when he came into office the State treasury was so bankrupt that there was not enough money to pay postage on his official letters, brought about by aiding various enterprises supposed to be to the advantage of the State of Illinois.

With that message in mind, they put into the Constitution of 1870 a provision which says that the State shall never pay out, assume or become responsible for the debts, liabilities of or in any manner give, loan or extend its credit to or in aid of any public or other corporation, association or individual. It has been the settled policy of the State of Illinois for fifty and seventy years that the credit of the public shall not be given in aid of private affairs of any sort, and while I think it highly desirable some way should be found to increase the number of people owning farms, and would do anything in reason to bring about that purpose, I believe it would be a public benefit, but I am not willing to depart from the settled policy embodied in this Constitution for fifty to seventy years, and start a demand on the credit of the State which will be sure to follow if you start this proposition. Why won't the miners come in and ask for light aid, with good reasons which they will give, to those in control?

I cannot say how many other classes of worthy persons in this State will make like demands. I do not believe the Initiative and Referendum is very popular in this assembly. I voted against it, and expect to vote against it when it comes up. Here you expect to put up by referendum to the people of the State of Illinois in this proposition, as I understand it, a matter which treats of what? With people, that will be its effect. This is putting up something which is designed for a group of persons primarily, that is primarily for the farmer and secondly for a public benefit. When we start in to extend the credit of the State, I think we have made a radical and serious departure from the policy of this State, as embodied in the Constitution in times past.

I believe it will lead to endless trouble, and I believe it is facing directly the wrong way.

Mr. MILLER (Cook). There have been some things in connection with this measure that do not seem to have been touched on at all. Personally, I have not received any communications from the Illinois Bankers' Association or the Illinois associations, and personally I haven't any connection with the Illinois Bankers' Association or the other associations. My only improper connection with any bank is to borrow money from them for agricultural or other purposes. Like some of those who have spoken, I originated on a farm, but, unlike those who have spoken, I have never severed my connection with the farm. I am a farmer today. I realize keenly the dangers of tenant farming and allowing the farming to fall into decay, but there is a peculiar thing in this measure that seems to me to require explanation. The reason given for it is the enabling of the tenant farmers to own the land, and the dangers are conceded of tenant farming, yet not a single instance has been cited anywhere in the world where a measure of this kind has aided in the elimination of tenant farming. On the contrary, the various instances which have been cited in support of this measure, in North and South Dakota, in New Zealand, in Canada, and in other places, are instances where there was a lack of credit for agricultural purposes, where there were undeveloped lands due to a lack of credit, and where the supplying of this credit enabled the bringing into use of useless lands and the development of undeveloped lands.

Now, so far as I can see, that purpose might be subserved by a measure like this. That is to say, if in Illinois today there is a dearth of credit for agricultural purposes, there are undeveloped lands, which a proper supply of farm credit would avoid; if the furnishing of this credit would develop undeveloped land and make fruitful unfruitful land, then I could see a reason for this sort of a measure; but what worries me is this: not a single person has, so far as I have heard in speaking in favor of this measure, claimed that in Illinois today there is a dearth of credit for agricultural purposes, and not a single word has been spoken to the effect that there are in Illinois today any large amounts of unimproved land which would be improved by reason of the furnishing of farm credits, where there is none now.

Take South Dakota, for instance. The article of the Governor, to which reference has been made, not a word to the effect it has reduced tenant farming or increased the number of those who live on the farms who own the farms. Everything that was said was to the effect that there was a dearth of credit for farming purposes, and the supplying of that credit by the state had enabled unproductive areas to become productive. That, I take it, was the situation in New Zealand. That certainly is the situation in Canada, where they have large areas of unproductive land, and where there is a dearth of credit for agricultural purposes. If the situation exists in Illinois, not a word has been said on this floor. If that is the situation in Illinois, I can see some reason for this measure.

On the other hand, what is there about this measure that would reasonably tend to reduce tenant farming? I admit all of the dangers of tenant farming and it is growing to an alarming extent, it seems to me, in Illinois, and something, something constructive, it seem to me, ought to be done to the end of assisting in the elimination of tenant farming, but what is there about this bill that does that? I cannot see a thing.

Now, gentlemen, upon this floor they mentioned instances where constructive measures have been adopted to reduce tenant farming. One of them is in Denmark, but what happened here? The state bought the land, took it from the owners and sold it to smaller owners who occupied it, and granted them credit to enable them to buy it. That, of course, was effective. We all remember, about twenty years ago, I think it was, when the absentee landlordism was the bane of Ireland, and when the Parliament of Great Britain took the matter up and bought the lands from the absentee landlords and sold them to those who occupied them as tenants, upon long term payments. And that, of course, was effective.

We now have an example of a different system working in England today, working more or less for the last twelve years, but more since the beginning of the war; by graduated taxes they have discouraged the large holdings, and the result has been the breaking up of large estates to an approximately large extent. It is going on every day and every month. That has been effective.

We also have been cited the example of California, where the state buys large tracts of land, which it is authorized to do, and sells them in small tracts to the owner and gives credit to the owner. That, no doubt, is effective.

I happened to be acquainted with the fact; in the legislature of California they have been considering and doubtless will consider the proposition again, of limiting the size of the tracts owned by a single individual or single corporation.

In other words, they will probably either prohibit owning large tracts of land by one individual or will discourage ownership of large tracts of land. That is effective; measures of that kind are effective to reduce tenant farming. It seems to me very desirable. I cannot understand why the gentlemen back of this measure are not willing to incorporate in this measure authority for the legislature to take some similar steps in this State. We can point to instances, not one, but several, where measures of that kind are taken, but nowhere can we point to a single instance where tenant

farming has been decreased by merely loaning credit to the owners, or occupiers of the land, for agricultural purposes.

On the contrary, wherever a measure of that kind has been adopted, so far as I can learn, so far as it has been cited here, it has been solely for the purpose of supplying credit for agricultural purposes, where that credit does not sufficiently exist before.

There are states, several of them in the West, where the holding of large tracts of land by a single individual has been either discouraged or prohibited, and we know in Illinois that the condition exists to a very great extent, the holding of large tracts of land by a single individual.

Mr. Chairman and gentlemen, it seems to me that this measure is inadequate for the purpose for which it is advocated, that of reducing tenant farms or breaking up large holdings of land; that it will only operate to supply farm credit and if there is no dearth of that at the present time, I, for one, cannot see the purpose of this bill.

Mr. KERRICK (McLean). When this matter of Farm Loan Credits was first presented to my mind, I confess it did not strike me very favorably. My impressions were rather against it for the reason that I connected it in my mind with an experience which has been stated, which this State had in its earlier period, through its attempt to encourage practically every variety of enterprise, so-called, banking, canal building, road building, almost every conceivable thing that could suggest itself to the mind of any community or class of people. Of course, we know the history and outcome of that sort of thing. But I have this to say, that I have given this matter very serious consideration, entering upon the matter with a measure of preconceived prejudice against it, and the feeling that some way or somehow it was not a safe enterprise to engage in, but from the time I began to consider the question, instead of becoming more firmly of the opinion which I entered on at the outset, from step to step as I thought about the matter, my fears were dissipated, my opinions and my feelings with regard to the matter changed. Not immediately, I admit, but when I came to size it up, within such limits as my mentality enabled me to arrive at conclusions about anything, I am now convinced that this certainly is not a dangerous project, financially considered, and I shall try to state some of the reasons why I have that conviction, later on. I am also well grounded now in the belief that with great care, exercised as great care should and must be in the administration of whatever legislation may partake of a constitutional provision, that there shall be one on these lines. I believe that not only upon principle can the matter be defeated, but I believe a demonstration of it will show benefits, and very great benefits, that can and will, in the course of time, not immediately, no good immediately, but in the course of time, where substantial benefits may come to this State from what we may introduce by means of the Constitutional provision substantially upon the lines of the proposal submitted.

One thing that may prevail in this matter was some experience I had in gathering up what we could gather up in the way of investments made in the so-called International Building and Loan Societies, societies not having their locus or their chief place of business in a single city, but who through their agents did business in from ten to fifteen or twenty states here and there, east and west, north and south, all over the United States; loaning, not upon farm lots, not upon any specie of property which from year to year or day to day was productive of the necessities of life, but on homesteads. In one instance in a case in which I was engaged for years in bringing about the final settlement of one of these institutions, there was involved 156 properties in the City of Chicago, residence properties almost exclusively, thrown back to be administered upon in the receivership of that association. Likewise here and there and everywhere a number of properties from which there was no certainty of any continuous revenue for a considerable length of time ever being received.

Now, going from that class of investments to the class of investments contemplated to be made by the State under the provisions of this measure, we change to the best security for the repayment of a pledge made on

account of that security, in the world. Better than a coal mine, better than a gold mine, better than anything else, because it is bound to continue forever with proper treatment, but the actual producing commercial value don't give out if it is treated right. It keeps on feeding the world if it is kept up, as Nature first arranged it, made it and kept it. If the elements deposited by the Creator in the first instance in an acre of Illinois land, whether it be in Southern Illinois, Central Illinois or Northern Illinois, if in the process of time and after hundreds of thousands of bushels of grain have been taken off a smaller farm, it is found it lacks some of the necessary elements from which plant food can be produced, Nature has deposited those elements here and there about the world and we have them in abundance inside of reasonable limits from which they can be obtained to replace in the soil the elements that are wanting. So, the land is a perpetual producer.

Now, it may be answered that it is accurate in this State, and is accurate everywhere, that mortgages have taken the land, mortgages perhaps for money loaned to only fifty per cent of the supposed value of the land, and those mortgages were foreclosed, and sometimes a deficiency decree taken. That is true, that has happened in the county of McLean, perhaps the best agricultural county in the world, if properly handled.

Between 1870 and 1880, I think, without knowing precisely that I am right, almost as much as twenty-five per cent of the farms in McLean county went into the hands of mortgagees. Why? Just because temporarily, under a condition of universal business depression, particularly after 1873 and until 1880 or 1881, land went down and down until people were afraid to have any of it on their hands, but there was not a farm in McLean county or Ford county where one single loan of forty thousand dollars was a loss to the mortgagee; there was not an acre of that land, had the mortgage been such a one as contemplated under the provisions of this proposal, not an acre of that land but what would have been today in the hands and possession of the owner from whom it was taken at that time by reason of a mortgage. And, for this reason, they were not long time mortgages, nor can you get long time mortgages to any considerable extent from individuals. A mortgage becomes due to an individual, and that individual wants the money for something else. If, when it becomes due, there is any depreciation in land prices, he forecloses the mortgage, and that is the end of the original owner. A mortgage may become due under this plan of ownership, and because there is a temporary depression in the price of the security, there is no reason whatever because of that he shall be the ultimate loser. Experience has shown that in a period such as will be allowed for the payment of this mortgage loan, under this proposal, land runs to its actual value at least once in every six or seven years, so the tenant who borrows money under this plan, if there should be a failure of crops, or a financial condition which makes everything hard to sell for what it is worth, he will lose nothing, the State loses nothing, the State does not die, the State does not have to be settled with, as in the case of the individual mortgagee's estate. It goes on, and the State knows that after awhile the security will be entirely sufficient. The owner knows that. He does not become discouraged when he sees he is going to be a failure for a single crop, and say, "I might just as well get out of it and go back to tenant farming." He knows there is no need of that; he holds on and his family holds on. He says to his children: "We do not have to get out of here because we cannot pay every payment as it becomes due; we have a long time in which to pay this; the State is not going to foreclose under conditions of this kind. The State knows that after awhile the land is worth the security, and more, and we will pay the entire interest." So the proposition is not comparable with the ordinary mercantile transaction between one individual and another, whether about land or any other business. It might be called class legislation. In a sense it is, but when this opportunity is offered, it is not offered to people who now happen to be residents of rural districts or who happen to be on a farm. It is an opportunity offered to the youth of the entire State. There are even in the cities a great many young men whose minds are turning towards the study of agriculture. They are attending agricultural colleges, some of

them already on farms after having taken a course in agriculture in the college. Some of them are very awkward about it, possessed of a scientific knowledge but not of the practical knowledge. None of the information which is acquired from daily contact on what is to be done on a farm, but in every instance after a little while, after the young fellow has been a joke on the farm for awhile, he begins to catch on with what is practical to be done, and, together with the scientific knowledge, he succeeds very well.

I know of instances, I have one in mind, who is perhaps the best all-around farmer on a large scale in McLean county, who developed that way. So when we speak of class legislation, it is legislation which gives the opportunity to every son of every man in the State of Illinois, whether city toiler or country toiler, to go out equipped with courage and ambition, having the belief that he may become a land owner himself, equipped not merely to do good on his own account but to provide something that everybody will realize before long has to be provided for by somebody in some way, and that is provision for what we need to eat.

There is no question, nobody denies it, that something has to be done to increase the food production in this country. It has been suggested that this does not apply as it does in the newer countries, or does not apply in Denmark because of the opportunities given under their land owning system.

I want to tell you, gentlemen, that there are just as many acres undeveloped in Illinois today, just as many acres in Illinois of land to be developed into a condition of greater production, perhaps to the extent of double production, as were in Illinois when God made it. Every acre of the soil in the State of Illinois is capable of having made into another farm on top of it. We did that when we went through that crisis once in this State, practically on every farm that was a tenant farm in this State, when the owner went in himself, the only corn that could be cultivated was a few spots on the hilltops or on the high lands, and they would have to get in there with a single horse, and when you got down in the sloughs so deep you would have to turn around or else the horse would mire down. A very large percentage of the lands called farm lands produced nothing in a wet season. At that time we did not have the tile, and the system of tiling has operated to practically double the amount of farm acreage in the State of Illinois, but we have gone as far as we can with that to help us out. We have all of the land under tillage practically; even with this wet season there are very few places that will be untilled. But our soil is getting thinner; it lacks many of the chemical properties or a few of the chemical properties necessary to plant food, but we can build another farm on top of every farm in the State of Illinois, in time, by restoring to the property what it lacks in plant food, but you have to have men on that land that want to put that process in of restoring the fertility of land, which is a long, tedious and rather expensive process. You have got to have men on the land that feel that when they put on that fertility back on the soil, even though the landlord buys it and they merely have to distribute it, that they are going to reap the fruits of what they sow. Some of them do it now, but they do it half-heartedly, do it with no effort to spread it as they should spread it, leaving it lumped here and then a thin spot under the dirt. I know it, because I have the best tenants in Illinois on some little land I own, and I had to help them, but they did not go about doing it as I would do it if I were situated as they are on the farm.

It is the element of ownership of the piece of land that brings production up to the highest practical point in any land.

Now, then, I have said a great deal more than I expected to, I want to emphasize again this thought: That perhaps while money is going to be placed on security, there is bound to return every dollar you put into it, not maybe on the day on which it is written in the paper to be paid, but in long time mortgages the State of Illinois will get back every dollar of principal and dollar of interest contracted to be paid back to it, which it has loaned out to the citizens of the State of Illinois. Now, again, there will be money to pay taxation, you cannot take out money without putting it back, that is admitted, of course. These mortgages, of course, there is no question of

saying, must be guaranteed by the State, and if so guaranteed, they pass out of the State's possession, and they get the money out of them. That money doesn't have to be continually coming from the taxpayers and put into the State treasury. It comes back pretty near as fast as it is going out, the State being merely the guarantor, no vast sum of money having to be gathered in from year to year. It is easily within the means of a great State like this to do it without seriously interfering with any other necessary enterprise. Upon the whole, therefore, I think, although at one time I was doubtful about my position on this matter, I feel now I am in favor of this proposition.

Mr. MICHAL (Cook). I am considerably interested in the subject of farm credits. I am much impressed with the proposal that is before this Convention for consideration. I rather think it is a thing that is an unwelcome measure from the standpoint of bank presidents and bankers, but on the whole, I think in the main it redounds to the benefit of the vast community of farmers who are now deprived under this present monetary system, under the loaning system that obtains, of owning farms for themselves.

I believe with some of the members that there is a grave danger that the future situation of this Nation is imperilled, just because the opportunities of the small farmers are not presented so that they can own and cultivate the soil.

I think it is the curse of the Nation to foster the spirit of farm tenantry. I think we ought to give the farmers of this great State every aid that is consistent with the utmost production of the soil. I earnestly hope that my colleagues from Cook county, with whom I am here, will support this measure, and I hope it will be adopted and written into the organic law of this State.

Mr. ELTING (McDonough). I am deeply interested in this subject, but I do not take the view that many have taken on this matter. I do not look on it as a proposition in aiding individuals, but rather a public matter, in which the people of the State of Illinois are greatly interested, that is the matter of the production of food. We must not look at it in a selfish way, we must look at it and give it a broad vision and give it the spirit that it is entitled to.

The matter of food production, especially in time of war, is of absolute necessity, and also in times of peace is a matter in which we are all interested.

I am glad the delegate from Cook made the speech he did. I cannot conceive of anybody that would be more vitally interested in this problem than the people of this great city by the lake.

It has been said that there is no law for it, that it is contrary to the principles that have been enunciated in this State, and if that is true, gentlemen, let us make some law that will fit the needs of the people of this great State. That is what we are here for. I tell you, gentlemen, there is no great city in the desert of Sahara, and the gentleman from Cook is wrong when he says that it is the close proximity of the great cities that makes the high priced farming communities. I say that it is the close proximity of the farming communities and the food producing countries that make and build great cities, and I defy anyone to challenge that proposition.

Now, what does this proposition mean? It means the State contemplates having young men, who desire to enter into the farming industry, come to the farms and aid them. It is not a banking proposition. True, our Constitution prohibits the State going into a banking business, but we can change that if necessary to meet the conditions of the times. I have no fault to find with the bankers, they are a lot of good fellows, and I offended some of them one time in a speech by saying that they were the best fellows and the biggest cowards on earth. That is in regard to making loans, I did not mean to be harsh at all. I meant it as a compliment, but they did not take it so, but they are good fellows, and I know a banker in

an adjoining district that has gone out and invited young men of that county to come there to his bank for finances, and they are financing the young men of that county, and I say when an individual bank can do that thing, the Constitution can do it for the State of Illinois.

It is not an unheard of thing, gentlemen, along the line with the gentleman of Cook who said the proximity of the great cities was the cause of the development of the country, he also invoked the Constitution that said or provides the State shall not lend its aid to such matters; didn't the State of Illinois lend its aid to the Illinois Central Railroad Company? Didn't the State lend its aid and give its credit to the extent of millions of dollars to that company? Has that been to the benefit of the State of Illinois? Who is here to say it has not benefited the State of Illinois, but, gentlemen from Cook, that has helped to build your great city as well as other great cities of this State, and we have a constitutional provision also that the State will not lend its aid in the building of any railroad, but we have done it and done it successfully, and done it for the great State of Illinois, and I say that is a territorial matter, that by reason of the State building that railroad, it helped to build Chicago, the same as other great railroads in this territory.

I want you to stop and think a minute; you take from Western Ohio to half way across Nebraska, and south to the State line, that is north and south as far as the State extends, and you have the great farming community of the world, and eventually, if I mistake not, from the vision of the men who were speaking yesterday, we expect to have within that territory the greatest city in the world, and that great city is to be located in the State of Illinois. I don't think there is any question about that, but in order to have and maintain that great city and the other great cities of this State and support the people that work in the factories of this state, we must have food. Just as essential as it is to have armies, battleships and munitions. Big armies and battleships are merely toys if you shut off the supply of food.

Now, then, what is proposed to be done? Another gentleman from Cook says the remedy does not fit the disease, that it will not cure this State of farm tenancy. All of the advantage to be attained in that regard is to assist the tenants that desire to do so, to purchase land and become land owners themselves and producers of these food products.

The main thing in this regard is this, when a man owns the farm and resides on the farm, he keeps it in better repair and he keeps his land in a producing condition. As a rule, the tenant has to pay a high rent, and as it is the source of the farmer's income, he applies all it is worth, he is obliged to get out of it all he can. That is the point between tenancy and owners, and it makes it more productive, easily, to be owned by the man residing on the farm.

I was glad because Governor Fifer made the statement about the three essentials of air, food and water. Food is just as essential as the others. Of course if you have air and water, there is one man in California, I understood, undertook and did live forty days on air and water. But here is a great city up on the lake, having an abundance of water, and they have some of the free air, but I tell you if you shut off their food they are as helpless as a lot of babes, and then to say it is in the aid of individual enterprise! Not at all, it is in the aid of public enterprise, and very important public enterprise,

You men know, it is not generally known, that at the time our railroads were taken over by our Government the real motive behind that was this: The Allies had notified the United States that they did not have food to last exceeding ninety days, and that unless the United States came to their rescue, the Allies would have to make terms of peace and surrender. What was done? We had the farms in this country and the railroads, and we had the means, so they took over the railroads and got the food to Europe and saved the armies. That is the inside story, but it is true notwithstanding. That is where the Illinois Central came in, and that is where

the other big railroads of the United States came in. I say, gentlemen, the railroads and the food producing people of the United States saved the world in this crisis.

Of course I do not mean not to mention our great army, but my tongue runs along the line of food, because without food the army would be nowhere. It has been suggested by the gentleman from Cook here that a great general said that a great army moves or crawls upon its stomach.

I don't think that we will be violating any of the niceties of the law, and if we haven't any law, we lawyers all know when we haven't any law we can argue the law of necessity, that is a famous term, a familiar term to all lawyers, the law of necessity, if there is no other law. The law of necessity, if no other law, demands that we protect the State industries, gentlemen.

And I want to mention or answer another remark made by the gentleman from Cook, that the cities made the high land values. The land over here by Bloomington is the highest in the State of Illinois, but, my friends, you might come back to say that Bloomington is a large city. Land over in Western Illinois is worth four to six hundred dollars an acre, two hundred miles from Chicago, and I understand today the cheapest land in Illinois is up near Chicago. Now, finally, I am perfectly willing that this matter be left to the legislature, that is, that we give the legislature power. I am not afraid of the legislature going into a banking business that will bankrupt the State because, as stated in the beginning, this is different from the banking business; every loan that is made will be secured by a mortgage on the land, and if the borrower fails to carry out the mortgage, when it is foreclosed the State will own the land and they will not loan more than the land is worth, and under the present conditions in the State of Illinois I am one that feels that land will never be any cheaper than it is today, and that food products will not, be any cheaper than they are today. Do you know that in the last decade the population of the United States has increased from seventy million to one hundred and ten million people, and in the same time our beef production, our cattle herds were reduced from over one hundred million to seventy million, a discrepancy of over sixty millions in one decade, and unless something is done about beef and cattle they will be as scarce as the American buffalo in a few years. I say let us encourage this industry as well as encourage these young men that have been attracted to the city by the bright lights, to come back to the farms, and when they come back, let the State say, "We will loan you seventy-five or eighty per cent or perhaps more on the purchase price, on a good piece of land, and we want you to go there and make your home and not only be a producer of food, but you cease to be a consumer, that is from the market standpoint."

I don't care to take up any more time on this subject, but I think this is a measure that deserves the vote of everybody in this Convention, not as an aid to an individual enterprise, but as a public measure.

I have said before, talking about building navies, that I am not opposed to preparedness, and if I had the power, every time I appropriated one billion dollars to build a navy, I would put one-fourth of it to operate the farms and help the farmers, to help the boys get homes, because the boys that are working in the open make number one soldiers, and the boys that are fighting for their homes and firesides make the best army in the world. I say it is not an individual matter. I say it is almost a public necessity. Reiterating, I think, gentlemen, we have large cities in this State because we have the food products within reach, and that is what makes them great. I think we should put aside all ideas that this is for individuals, but it is a public measure.

Just one more thought. Hasn't this State been spending a million dollars over here at the University of Illinois, among other things to teach the boys how to farm, and teach them how to make two spears of grass grow where only one spear of grass grows now, and make one hundred bushels of corn grow on an acre where only twenty-five or forty bushels

grow now, and they are doing it. And when they are through teaching them how to farm, let us go a little further, let us give them a place to farm, that is the object, as I understand it, of this bill.

Mr. GEE (Lawrence.) I wish I had the ability to command, and the language to engage your attention on this, which I think is the most important question we have to consider. Having witnessed the close and undivided attention given by the gentlemen here when the question comes us as to how many representatives the General Assembly should have or how a county should be represented, I thought that a question like this, of transcendent importance, ought to engage the attention of the gentlemen of this Convention. When I heard the discussion on the question of the hour and saw the position taken, I recalled to mind a little story which I read which I will tell you, and which I think is not altogether far-fetched from the occasion.

A boy interested once asked his father what is the difference between a standpatter and a progressive? The old father said, "A standpatter is a man that gets stopped and you never can get him started; a progressive is one who gets started, and you can never get him stopped." I read that in a religious weekly, it has no political significance whatever, but it does seem to refer to some positions taken here in this Convention.

Now, gentlemen, for the past years of our experience we have been trying out the remedy of not allowing the State to lend its aid to tenantry and small farmers of the land. We are met now with a question that is undisputed, we need more production and consequently we need more farmers. Without farm hands, you cannot have production. We have tried the slogan, and advertisement of hollering from the housetops back to the farm. We have said, "Own your own farms," yet the tide has gone to the cities, and the lure of the industrial concerns, the short hours and the amusement of the hours, have taken them away. The hours required under the sunlight of God's heavens on the farm have not lured the young men back to the farms, and as a consequence production is threatened, and the high cost of living has resulted. We men who believe in this proposition—and in passing I might say I am properly classed as one of those—if selfishly looked at, I would rather be the guardian of money loaned to men on their farms on short time loans, with forty or fifty or sixty per cent upon the security, and my fixing the values. We have tried that out in loaning from the banks and brokers, and the evil hour is upon us, the hunger of the land for production, and it does not come from our past experience and the slogans we use trying to encourage them. Sometimes I have thought, I hope to be pardoned for the expression, that wealth is being carefully guarded in this chamber, its portals have somebody to look after it to see that the vault is not broken into, and I have not seen, excepting a few, anyone putting very much tenseness into the proposition of getting a man back to the farm. I am not an alarmist, but it is in the history of mankind that once the cry of "Bread" brought about a revolution. I would not undertake to take up your time and starve the hunger of lunch hour in your stomachs by telling you what we need more than anything else is production, and there is no way on earth to get it, gentlemen, except to get men interested in farm production and farm lands.

I have met in the discussions three prominent reasons why it won't do. One gentleman told us we had the wrong remedy. He doubted whether it could be successfully carried out. A sufficient answer to that under the time limit for me to say would be wherever it has been tried out it has been successful. A gentleman whose judgment I have great confidence in has asked a question whether it has ever been shown where it ever has been tried out that tenantry became less from ownership, and I will answer him "Yes." I will read from the transactions of the Commonwealth Club of California, where they have for a short period of time tried it out. They have tried it over in Germany, and whether we like Germany or not, we have to take our hats off to her efficiency, and whether we speak about Australia in foreign terms or not, we admit on this proposition she has

carried it out to a successful end. In Germany and Australia men who know say this proposition is successful.

Your point of view is before you loan a farmer, you want a profit on it. The State will not, should not, ought not be ever engaged in a transaction for a matter of profit, but in this particular discussion we are appealing to your consciences, and it would be the greatest profit sharing proposition any state could ever enter into, doubly so in the great citizenship it so much needs and in the great production class it so much needs.

We have not gotten quite that far, gentlemen, in Illinois yet, but I prophesy that if we do not take advantage of the hour and take time by the forelock, we may reach that desperate condition. Men are going from the farms. Nobody disputes that. They are going because they cannot get a farm of their own to till. When I meet eloquent gentlemen in this Convention who tell me that the pride of their lives is that they came from a farm, I wonder after they have gone into the marts of the great commercial cities and amassed their fortunes, they speak to me at times and say, "I am going back to the farm," and I wonder if that human equation ought to be dulled and stilled, instead of being encouraged. As I pass up the streets from this chamber, I see great manifestations of the movie artist trying to lure the child from the farm. No expense spared to distract from the great producing classes the things that we cannot do without. From the first wail of the infant suckling to the last breath of the disappearing and expiring old and aged man, the cry of hunger must be appeased. We are trying to do something. We are trying to make a step forward, make progress along these lines, and we are not so progressive in our article that we cannot be stopped. I want to call your attention to what it means. We give to the General Assembly authority to provide for the establishment, maintenance and administration of funds to be loaned on the security of farm lands of the State, the best security in the State, or that the earth can produce. "Without any reference to any limitation elsewhere contained in the Constitution." That bugbear in the last sentence seems to be put there to tell us that we are doing something that we should not do. We are not doing that; when we take the funds to help the tenants to get a farm, we are helping ourselves; we are putting in the hands of some men our credit, our moneys, not only to help those to whom it is given, but we have safeguarded it so that such farm loans shall be secured by mortgages or deeds of trust and shall be made only to persons who occupy and cultivate the lands pledged as security.

The speculative hand is silent. The man of the hour needed is the man encouraged to get the land and make it his home, to become a first class citizen, not a discouraged citizen, to cultivate it for the weal of all men of the State. It should appeal to the gentlemen of the city crowd, it should appeal to the great commercial interests of the State; more cultivation, more grain shipped to your marts, more stock to raise, lessening the price of your food, if you aid in the encouragement to make contented men in place of discontented men, give hope and encouragement rather than despair, yet all the men who are getting the advantage of it and doing less toward encouraging it are the city dwellers. Why are you so afraid the coffers of the State treasury will be depleted, and never reimbursed? Do you know seventy per cent of the taxes comes from the agriculture, and do you know when you send back that money to the agriculture to encourage it, you are sending it back whence it came, and you are always going to get it back? Do you know that the failures of the world are not among the agriculturists, so far as payment is concerned? With twenty years' experience loaning in a small way to small farmers, I have yet to record on my books a loss. I would like to ask the great commercial men, the great wholesalers, whether they have let their goods go out on credit and lost a small percentage, whether they have found any class that can be compared with the farmer?

So I say, where the State loans the money and takes a mortgage or deed of trust, it is as certain as can be that the money will be replaced.

And back of that, more than that is the question of great, good, whole-some citizenship.

I have felt sometimes that these great congested districts, packed like sardines in a box, with no sunlight, with no green spring, with no influence of Nature to uplift, no encouragement at all, that thing could be eradicated out of our system with more encouragement of this Back to the Farm movement. Did your city dweller ever take more pride in riding in your city than he did when he went out among the boulevards or good roads in the farming districts? Why don't you encourage it, you cannot lose?

What about the relative production where the tenants farm the lands and the owner farms them? Gentlemen, I would be, I think, within the bounds of statistics and reason—statistics to me are so dry I hardly ever take time to look at them—to make the assertion the state of Iowa, and doubtless that is the case here in sections of Illinois, makes a showing that twenty per cent more production is made by the man who owns the land and cultivates it and oversees it, than where it is left to the tenantry.

I have had some personal experiences as a landlord, and it is pretty hard to show me that new fences should be made or little things done or expenditures made for the convenience of my tenants. I am like the banker, I am looking for the percentage all of the time, but when you put the man on the soil to own it, careless is he of expense and profit. He is making a home and a fireside. He sees his profit in the beautifying of his home, putting his fertilizer on the soil and making it productive. He is not looking at a five or eight per cent loan, he is making for the future. While he is doing that, he is doing something for every man, woman and child in the State of Illinois. If there is anything that should be encouraged, if there is any community, any vocation in life that ought to have the hand of encouragement from the State, it is the farmer. You cannot wipe it out.

I am told it is class legislation. That is another kind of ghost to hide behind. Strip that word down to the last analysis and you will never get away from class legislation in any kind of legislation. You make somebody somewhere under some conditions more benefitted by the legislation than someone else. But to tell me to go into your legislature and mine with the power to create a fund to aid a loan on ample security, so nothing is lost, for the purpose of permitting a man to cultivate the land and bring in what we most need, that only benefits the individual that the money is loaned to, who cultivates the land, that is the veriest rot. It promotes, as far as human needs are concerned, the most congested places, the factory districts of your great city. It helps them and in a measure, gentlemen, it helps the man, it helps the farmer. Over two hundred thousand of the stalwarts of the farmers in this State and Nation left here and went over into British Columbia to get just what we are trying to offer them here. Gentlemen, it is worthy of serious thinking. Gentlemen, the time is not given to me to tell you all of the good features of this bill, but lest you forget I want to call your attention to one thing in this proposal that no man ought to forget: A few years ago we passed through the most trying times of our lives; our boys were marshalled to go to fight for humanity, and an old cynic in my town, and we have them nearly everywhere, but I hope there are none in this Convention, said, "What are you making so much fuss about, sending these boys out, carrying these flags and banners and waving? I wonder when they come back if your hearts will be swelled out and your flag carrying will be going on to welcome them home?" I was insulted. They have come back. I was encouraged when a cabinet minister said, "Let us give these boys some land and get them back to the farm," but, like the "Back to the Farm" slogan, it has not been answered. We have taken an advanced step, and we have set in our proposal reasonable preference may be provided for to honorably discharged persons who have served in the military and naval forces of the United States. Gentlemen, are you willing to turn that down? This is not the most of this proposition, but it cannot be wiped out.

Wealth can always take care of itself. Poverty and hunger must be provided for, and again we are seeking to do that by moving a step forward.

Now, gentlemen, there are many things that I could say, but I feel like, in this body of intelligent men, for the first time having an opportunity of putting in the records of your country a hope for the future and that which is most important, you will support this measure.

Mr. TRAUTMANN (St. Clair). I move you that the debate of this Convention now be closed and that we vote upon the question.

Mr. BREWSTER (Lee). I would like to ask if the delegate will yield, that I may answer the gentleman from Cook who asked me a couple of questions. I have been waiting for an opportunity; it will only take a few minutes. If he will yield, I will only take a few minutes.

Mr. TRAUTMANN (St. Clair). I will yield.

Mr. BREWSTER (Lee). I will be very brief. I would not take but very few minutes; I would not attempt to answer it if it had been answered. I had hoped yesterday that at least I would get the delegates to this Convention to give careful thought and consideration to the agricultural conditions and results which are likely to come in the next fifty years, and I made this statement: That the cause of decreased production, one of the principal causes is lack of scientific agriculture, in which one illustration will show where I am absolutely correct, and it is short. We will take in the production of the crop of corn, there are about ten elements in the soil necessary to that crop, and you may cultivate as well as you might, but if there are only fifty per cent of those minerals, you will only get a fifty per cent crop. So what we were taught when we were boys, that the more you harrow the soil the bigger the crop, is ignorance. And if I should have been a delegate in this Convention, there would have been one more doctor or lawyer, if that was all I could see or understood, in the soil that the more you cultivated it, the bigger the crop, I would have quit and quit long ago.

Now, in regard to the other question, the delegate said he did not see how this proposition would increase the production in regard to the tenants. I think it will not need any argument to show you that the owner of a farm would be more interested and would be more inclined to increase productivity, and he would maintain the fertility of that soil.

I don't want to deceive you delegates of the city, I don't think this proposition of rural credits is a complete cure, but I do hope in the future it will perhaps change the drift of tenancy to ownership, and that will be a very good thing, and I am seriously alarmed over this situation that has been mentioned in regard to what is going on in some places in the United States, not in Illinois, of importing Japanese and Chinese to take the places of our boys, and practically you are going to have slavery, and my boys and the others that are interested in agriculture, their boys are going to be driven from the farm and they are going into the cities to compete with your boys for those positions that are worth while to obtain. And I am afraid where the mistake will be made is if the cost of food products advances as they are doing at the present time, we all recognize that they are getting out of reason, our people will become angry in the cities and you will be asked to do things which, if you would give it your serious consideration, you would not do. Therefore, if that is ever permitted to come to such a state of affairs, unless the Nation produces another Harriet Beecher Stowe, our agricultural system will ruin us as a Nation.

Mr. TRAUTMANN (St. Clair). I insist my motion prevail.

Mr. IRELAND (Woodford). I rise to a point of personal privilege.

CHAIRMAN DUNLAP. You may have the floor.

Mr. IRELAND (Woodford). Having been slurringly pointed out in connection with an association that I have been connected with, I won't pass on the personal slam, but I do want to give the history of the association. The fact is that letters have been sent all over the State and the fact that the farm bureaus have answered them by meetings of their executive committees saying that we were representing the Illinois Bankers'

Association. The Illinois Bankers' Association has had an agricultural committee that has been working for years on some plan towards this end, and there was no disposition in that letter to state that we were representing the association, but only representing the vote of that committee. The reason for that is that the bankers, the country bankers especially, depend on the farmer. The success of the country banker is the success of his farmer patrons, and I do not think it is fair to the association or any other association to be mentioned in the manner the gentleman from Shelbyville mentioned them this morning. The object of this proposal is the reduction of the tenant farmer, which everybody realizes is a laudable purpose, and the Illinois Bankers Association is heartily in sympathy with that proposition, but they do not think that the proposition as worded is a safe proposition, and it is not worded as it was started out in the committee. Nobody has mentioned the terms on which this proposal was to be legislated, and the idea advanced at that time was that these loans should be made by the State on an eighty-five or ninety per cent basis of the valuation of the land, which the association does not think is a safe proposition. The wording of the bill, without reference to any limitations elsewhere contained in this Constitution, is in direct conflict with section twenty of Chapter 366, and for that reason they think that section twenty is a safe proposition and are against it, as worded. That is the position of the association. I am glad you gave me the privilege of stating it.

Mr. TRAUTMANN (St. Clair). I insist on my motion, Mr. Chairman.

Mr. DOVE (Shelby). I rise to a point of personal privilege.

CHAIRMAN DUNLAP. You may have the floor.

Mr. DOVE (Shelby). I regret exceedingly, Mr. Chairman, and gentlemen, that any remarks I made were construed as the delegate has so construed them. There certainly was nothing intentional in anything I said to cast any reflection whatever either on the Illinois Bankers Association or any member of it, or on the two committees whose names I read. It was not my intention or purpose to slur them in any particular, and I do not believe my words could be construed that way if they were carefully read, or can be construed to mean anything such as the gentleman had insisted that they did mean.

CHAIRMAN DUNLAP. The question is on the motion to adopt the pending amendment.

(Motion adopted.)

CHAIRMAN DUNLAP. The question is on the adoption of the proposal as amended.

Mr. MILLER (Cook). I move as a substitute for the proposal the following amendment:

(Amendment read.)

In support of that, I wish to say just a word. That is verbatim the amendment that has been submitted by the legislature to the people of Kansas to be voted upon at the next fall election. It is advocated and was advocated by Governor Allen. It includes all that is in this proposal, and much more, and is much more effective, I think. It needs no argument in support of the proposition that it is much more effective for the purposes for which this proposal is designed.

Mr. CARLSTROM (Mercer). Is there any good reason for limiting the preference to those who participated in the World's War?

Mr. MILLER (Cook). The statement there is that preference may be given to them, but the preference is not limited to them. I think there is a good reason, that is to say that is merely giving the legislature the privilege of giving a preference to the soldiers of the World War.

Mr. CARLSTROM (Mercer). The reason for my question is this: The Spanish-American war veterans, there are not so many of them in the State of Illinois, they are all around the age of forty, and I do not see why they should be exempted, and also if there are any veterans surviving of the Civil War, I don't see why they should be exempted either.

CHAIRMAN DUNLAP. It may be further suggested, in view of the fact that we adopted an amendment providing for the submission to the

people of the State, when use is made of it, this does not provide anything like that, and would the delegate from Cook be willing to submit that on second reading, when we have taken a vote on this proposition on the original proposal? Then if we can work out the proposition, I would be very glad to join him in anything that may be suggested. The substitute offered by the gentleman from Cook is very different from the one that is under discussion and opens up a very wide field of inquiry that may give rise to much discussion. We have for disposition this afternoon the legislative apportionment matter, and I trust that we may be in position to go ahead with it.

Mr. LINDLY (Bond). I move that the committee do now arise and report progress.

Mr. MILLER (Cook). It seems to me this matter is all germane to the original question, and we ought to thresh it out in the Committee of the Whole, and settle the whole matter at that time.

Mr. HAMILL (Cook). I move we recess until 2 o'clock.

Mr. LINDLY (Bond). This has been a long siege, let us finish it if there is anything further to do.

CHAIRMAN DUNLAP. The question is on the motion of the delegate from Cook to take a recess. I hope that you will dispose of this proposition in the form now before you, and if desirable to amend it, it can be done on second reading, as suggested by the delegate from Bond. Motion is now to take a recess until two o'clock.

(Motion lost.)

Mr. MILLER (Cook). I will withdraw it, if desired, and take it up at another time.

CHAIRMAN DUNLAP. The question is on the proposition as amended.

Mr. McEWEN (Cook). Some of the delegates think the amendment suggested by Delegate Miller is going to be voted on.

CHAIRMAN DUNLAP. No, it is on the original proposal.

(Report adopted.)

Mr. SHANAHAN (Cook). I suggest to the chair that we ought to meet promptly after the afternoon recess. I move that we adjourn until one thirty, because there are a number of members who want to go back on the two-fifty train. They agreed to come back for an hour, if the session starts at one-thirty.

Whereupon a recess was taken by the Committee of the Whole until 1:30 o'clock p. m., of the same day.

1:30 O'CLOCK P. M.

The Committee of the Whole met pursuant to recess.

Chairman Dunlap presiding.

CHAIRMAN DUNLAP. The committee having completed its labors on Proposal 361, the next thing in order is the report of the Committee on Legislative Department, and I will ask the delegate from Cook, Mr. Shanahan, to take the chair.

(Chairman Shanahan presiding.)

CHAIRMAN SHANAHAN. The Committee of the Whole will be in order and the clerk will read the minutes of the last meeting.

Mr. BRENHOLT (Madison). I move the minutes of the last meeting be adopted without reading.

(Minutes adopted.)

CHAIRMAN SHANAHAN. When the committee adjourned, they had under discussion the majority report from the Committee on Legislative Department, and as I understand it, the gentleman from Rock Island had withdrawn his resolution?

Mr. DIETZ (Rock Island). Yes.

Mr. GARRETT (Winnebago). I wish to offer a substitute to Sections 6 and 7 of the majority report of the committee.

SUBSTITUTE FOR SECTION 6 OF THE LEGISLATIVE COMMITTEE'S MAJORITY REPORT.

Section 6. The General Assembly shall apportion the State every twelve years, beginning with the year one thousand nine hundred and twenty-one, into fifty-seven Senatorial Districts, each of which shall elect one senator whose term of office shall be four years, and the basis of senatorial apportionment shall be the number of electors who voted for Governor at the last regular election at which a Governor was elected previous to the apportionment.

The territory now constituting the County of Cook shall be divided by the General Assembly into nineteen Senatorial Districts, and the number of such electors in that territory shall be divided by the number nineteen and the quotient shall be the ratio of representation in the Senate for that territory.

The territory now constituting the remainder of the State shall be divided by the General Assembly into thirty-eight Senatorial Districts, and the number of such electors in that territory shall be divided by the number thirty-eight and the quotient shall be the ratio of representation in the Senate for that territory.

When a county contains two or more ratios of its territory it shall be divided by the General Assembly into as many Senatorial Districts as it has such ratios. Districts in counties so divided shall be bounded by precinct or ward lines; all other Senatorial Districts shall be bounded by county lines.

All Senatorial Districts shall be formed of compact and contiguous territory and the districts in each territory shall contain as nearly as practicable an equal number of such electors, but in no case less than four-fifths of the ratio for that territory.

Senators shall be so elected that the term of those now in office shall not be disturbed. They shall be divided into two classes so that one-half, as nearly as practicable, shall be chosen biennially.

SUBSTITUTE FOR SECTION 7 OF THE LEGISLATIVE COMMITTEE'S MAJORITY REPORT.

Section 7. The General Assembly shall apportion the State every twelve years beginning with the year one thousand nine hundred and twenty-one, into one hundred and fifty-three Representative Districts, each of which shall elect one Representative whose term of office shall be two years, and the basis of representative apportionment shall be the number of electors who voted for Governor at the last regular election at which a Governor was elected, previous to the apportionment.

Representative Districts shall be formed of contiguous and compact territory, bounded by county lines, or in the case of counties entitled to more than one representative, by precinct or ward lines, and shall contain as nearly as practicable an equal number of electors, but no district shall contain less than four-fifths of the representative ratio.

Counties containing not less than the ratio and four-fifths may be divided into separate districts and shall be entitled to two Representatives, and to one additional Representative for each number of electors equal to the ratio contained by such counties in excess of twice the number of said ratio.

The territory of any county as constituted at the time of the adoption of this Constitution shall never be entitled to more than twenty-six representatives.

Section 8. In case the General Assembly fail to make an apportionment, at its first session following the time fixed in this Constitution for making any such apportionment, it shall be the duty of the Secretary of State, Auditor of Public Accounts, and Attorney General, to meet at the office of the Governor and make an apportionment in accordance herewith within ninety days after the adjournment.

Mr. GARRETT (Winnebago). In Section 7 of this—I will say that this was prepared rather hurriedly—that should be twelve years instead of ten years.

CHAIRMAN SHANAHAN. The clerk will make the correction.

Mr. GARRETT (Winnebago). And in the printed paragraph in Section 6, of the copy here, the word “population” is stricken out, as the clerk has read it, and it reads “the number of such electors”. I make that explanation for the benefit of those who are pleased to look at the printed copy. This is some change from the present legislature or present Constitution.

The first paragraph of 6 divides the State into 57 Senatorial districts, it gives 19 of those districts to the County of Cook, and the balance, 38 to the State or down State, and it makes the apportionment every twelve years. The balance of the section is the same, I believe, as in the report of the committee, the majority report of the Legislative Committee.

Section 7 apportions the State every twelve years and elects the Representatives every two years. The basis is on the election of Governor, and the second and third paragraphs are comparatively the same. The last paragraph is that no county shall have at any time more than 76 Representatives of the number of delegates to the Assembly. On the part of the members of the committee, we felt that though this is a restriction on Cook County, it is not a severe one and we felt it would be satisfactory to the delegates of the Convention and the State at large.

Mr. GORMAN (Cook). The parliamentary situation is a substitute offered for the report of the committee, then I want to amend the substitute to strike out of it the last paragraph under section 7,—

Mr. BARR (Will). May I ask the delegate to withdraw his motion until I make a statement?

CHAIRMAN SHANAHAN. The gentleman desires you to withdraw the motion until he makes his statement.

Mr. GORMAN (Cook). I will gladly do that.

Mr. BARR (Will). The majority report or the majority proposition, gentlemen, from the down State members of the committee on Legislative Department, took the matter of this proposal under consideration and gave it the very best examination that was possible, and while it does not meet with the views of even a majority of that committee, yet in the interests of compromise and with the idea of satisfying just as far as possible the delegates in the Convention, the majority of the committee is willing to accept this or to consent to this substitute taking the place of the majority report, if it is so adopted by the Committee of the Whole. I desire to say, Mr. Chairman, in this connection, especially with reference to the basis of representation for each county, that that was a matter to which the majority committee very reluctantly gave way, but it seemed from a canvass of the situation that it would be impossible to arrive at an equitable distribution of the members of the House of Representatives and still have a Representative in the General Assembly, the lower House, from each county, unless the limitation was made in the House of Representatives. It seemed to the committee and to a number of the delegates who were consulted, that it would be more satisfactory, more acceptable, and perhaps work out better, to have the limitation provided for in the upper House, or the Senate, and that seemed to make it impossible to have county representation, or to insure a Representative in the lower House from each county without making the House of Representatives so very large, and resulted in this being the compromise.

The provision for the reapportioning every twelve years is made twelve instead of ten in order that it may follow the general elections for Governor, which occur every four years.

The report, however, the substitute, is acceptable to the majority of the committee, or the members of the Committee on Legislative Department, who joined in the majority report that was considered yesterday.

CHAIRMAN SHANAHAN. The gentleman from Cook, Mr. Gorman, moves to strike out the last paragraph of Section 7 on page 2.

Mr. SUTHERLAND (Cook). I hope the amendment offered by the gentleman from Cook will be considered by the gentlemen from outside of Cook. The fine spirit of cooperation that has been manifested throughout the Convention is illustrated in the proposition now before us, but it seems to me there is one thing overlooked by the gentlemen who have brought it in. The delegates from Cook County on the question of ratification are going to be put in about the same position that the delegates from the state of New York, Jay and Hamilton, were put in as to the Federal Constitution, where the question of proportionate representation in both Houses was the vexing problem, and Hamilton worked out a compromise and was able with Jay to go back before the people of New York state, one of the largest states in the Union, and say to the people, "I have brought you back a compromise that is fair," and to say to them that if the power had been given to the many, it was inevitable that the few would be oppressed, and that on the other hand if all the power were given to the few, that the many would be oppressed, and that each party therefore ought to have the power, in order that the one could defend himself against the other. That logic is as good today as it was more than a hundred and thirty years ago. And we from Cook County, with a representation fully according to population in one House can go back and argue for that kind of limitation and can get somewhere.

I do not predict that we can get an absolute majority in Cook County. That will depend on other things. It will be difficult, it will take a lot of missionary work in Cook County, just as it took a lot of missionary work in the state of New York when the Federal Constitution was adopted, but it will give us something to talk about. It will be a fair proposition.

Now, I want to call the attention of our friends from outside of Cook county to one other thing. They are limiting us in both Houses, in a way, to a very considerable extent. The present Constitution calls for an apportionment on the basis of population, and this calls for apportionment based on electoral vote. That will limit the large counties to some extent, not vitally in my judgment, but still it is a substantial limitation, and that limitation in addition to the flat limitation which represents our apportionment in the Senate, should not be there. We should not be limited in the House, but if in forty or fifty years, because it will not come sooner than that, we get a majority of the electoral vote of the State, then we should be entitled at that time to proportionate representation in the House of Representatives. I hope for that reason, gentlemen, you from down State will be willing to accept the amendment of the gentleman from Cook, Mr. Gorman.

Mr. CORLETT (Will). I desire the record to show that I favor the pending proposal recommended by the majority of the Committee on Legislative Department, but that Delegate Cutting, who this morning was called from this Convention on account of the illness of his wife, is opposed to it, and that he and I are paired and therefore, Mr. Chairman, I request that I be excused from voting upon the pending proposal and any amendment offered in connection with it.

CHAIRMAN SHANAHAN. Let the record show that the gentleman from Will favors the report of the majority committee, that he is paired with Delegate Cutting of Cook, who is called home on account of the illness of his wife.

Mr. CARLSTROM (Mercer). I opposed the majority report yesterday because I felt it was based on a wrong theory of representation, based on a theory that we have never as yet recognized. I believe the representation in the Legislative or law making body of any state should be based upon either the population or the electorate. Territorial area is a mistake. For that reason I opposed the majority report and did what I could to assist in the framing of this report, which is offered today as a substitute for the majority report.

I believe that it is basically correct in the distribution of representation. To begin with, I believe that it is as fair as we can possibly present to you gentlemen from Cook County and the City of Chicago. Yesterday I announced that I would be for limitation. We might as well understand that

is our position, not viciously, not from any local partisan feeling, but because we believe it to be fundamentally necessary and correct. We do it with the most kindly feelings and in the hope that in our deliberations over the substitute we may reach a common ground. While it may not be possible for all you gentlemen to support this, yet it will be possible for you to leave the Convention feeling your rights have been protected and that we have acted rightly and deliberately and not in any desire to exercise a tyrannical majority.

We submit this to you in all fairness and candor as a reasonable proposition. It seems to me it has been more or less conceded by the gentlemen from Cook, by the delegates here, it has sort of been an assumed position or attitude that Cook County was agreed to the limitation in one House. The pending amendment seeks to take away from the substitute proposition the limitation in the lower House. Allow me to call your attention to some facts that we discovered this morning. Distributing the representation based on the vote in 1912, '16, '18 in the State of Illinois, Cook County would have received 63 members in the Assembly. I do not believe as a matter of fact that this last paragraph is necessary. I believe the distribution of representation on the basis of the number of electors in the State will result in the County of Cook never obtaining this limit of 76, because it would take—if there has been any increase above this shown by the vote of 1912, '16, '18, then it would be reasonable to assume that it would be fifty years or more which would be required. It would require a great shift in population before you ever obtained the number of 76. We felt we should place that limit. We do not know what the shift of population may be in fifty years in Illinois, if this Constitution were adopted. We don't know what county might be so organized as to subject itself to this limitation. We do believe that you can go back to your people, and I for one of the down State delegates want you gentlemen to be able to go back to your people, and say that the provisions adopted in this Constitution were adopted after due and reasonable deliberation, and as the result of fairness and candor, and I think you can conscientiously say to your people that their rights have not been unduly limited, prejudiced or forfeited. I believe the substitute, gentlemen, is one on which we can reasonably agree.

As I say, gentlemen, believing you will never attain in the life of the Constitution which we may adopt a number of electors which would entitle you to even the number of 76 Representatives, there is neither harm in removing this paragraph or real necessity for retaining it, but we present it with the view of satisfying those who would like to have it retained. I hope therefore the substitute resolution offered here will be adopted in its entirety and in its present form in the spirit in which it is presented to the Convention.

I want to say to the gentlemen here from Cook County and the rest of the delegates that it is my sincere hope that our efforts will not have been in vain, but that the result of our labors will be a Constitution that will be adopted by the people of this State, and if that is the case, as I hope it will be, I want to meet you one and all and say the things done here are done in a spirit of fairness. We have eliminated the things which were so ably presented by Mr. DeYoung, when he called attention to the fact that the total population of twenty-seven minor counties of Illinois was not equal to the population of the County of Cook outside of the City of Chicago. That being true, I believe that the basis of representation in the majority report is erroneous, and not consistent with the theory of government, which would be a fatal mistake for this Convention to adopt. I appeal to you gentlemen from Cook County to go along with us in this proposal and support it, and join with us in presenting it to the people. I believe you can go back home and consistently say that the people of the State have been fair in dealing with you. My reason for supporting the limitation, my reason is that we are getting to the point where there must be a limitation. My reasons as have been explained by other gentlemen here, are briefly these: I do not believe

in limiting the representation of any man or woman in the State of Illinois who is entitled to vote, either territorially or otherwise; so far as the growth and population of a municipality goes, it should never be allowed to reach a point where it colors and controls the legislature of the State by a municipal interest. I believe you gentlemen thinking on this question thoroughly and fundamentally will agree that the diversified interests of Illinois should be represented in as diversified a way as possible, so that no interest, I care not whether it be industrial or agricultural, should ever be assumed to have such disproportionate representation as to directly affect the administration and legislative policy of the State. I believe this position is correct. I believe that is one that I can go to Chicago and talk to the people of Chicago on honestly, with open face and with honest intent. I respectfully submit that the report should be adopted as it stands, and ask you to join in that attitude in disposing of this question.

Mr. MICHAELSON (Cook). I cannot see how any delegate from the County of Cook can agree to any such purported compromise. If anything, it is worse than the original proposition, placing a definite limitation on both Houses, and making the basis of the apportionment in the popular House of electors. The House of Representatives has always been known as the popular House, and it should represent the population, in order that the people might have proper representation according to numbers. It is wrong to deny them that representation, and it is only sugar coating. The proposition that was dealt with yesterday we objected to without the sugar coated places, or any kind of place, as a remedy, when we were not sick. We have certain claims to representation to which we are entitled, particularly on the basis of population, and I, as one delegate from Cook county, will not, for a single moment, think of voting for this proposition or any proposition limiting the representation of Cook county in this manner. I cannot understand how you can expect us to agree to any such proposition as this. The people of my district would expect me to fight this to the limit, and that is what I am here to do. I feel certain that every Cook county delegate will join in the fight. Of course if you have the number and the vote to put the proposition through, that is one way of writing a Constitution, but if you want the approval, the popular approval on the Constitution when it has been written, that may be a different story.

The district which I in part represent I cannot guarantee you much support from for the product of this Convention should it contain any such limitation as is written in this substitute measure.

Now, gentlemen, if this is all we can have in the way of compromise, let us vote and then let us go home.

Mr. McEWEN (Cook). Mr. Chairman and gentlemen of the Convention: I am in full accord with the kindly sentiments expressed by the delegate from Schuyler yesterday, when he spoke of the delightful intercourse which we have all enjoyed one with another. I have come to the capital of my State to meet my brethren from the country. I have felt that I have met the men that are representatives of their communities, that probably they are as I would have been had I remained in the country, and I would like to think that they are the same as I am and they would be as I am if they had moved to the big city. For, after all, we are all of the same kind, the same class. We have our impulses, our ambitions, our emotions, and while we may be shaped somewhat by our environment, fundamentally we are the same.

To me the line that divides Chicago and Cook county from the rest of the State is entirely imaginary. I know your people can come to the big city and be received in every walk of life, just exactly as though you had been born and reared in the big town. Its courts are open, its social institutions are open to you and all of the great opportunities that make up our social life would be just as available to you as though you had lived there all your life, and when I see this line created, I find that creation and that barrier comes from down State, and they for some reason or another look across that line, and they think they see a menace.

I listened to the arguments here yesterday, and particularly to that splendid presentation of the down State view by the gentleman from Schuyler. As I heard him, he seemed to concentrate on the thought that great bodies of people had united, that might be a menace to people outside of the particular political boundary within which this great body existed, and he said the county was the natural boundary line.

I can respect his argument for the body of the people, but I cannot respect his argument based upon a county boundary line. I took up this morning the last Session Laws, and I found there were over 425 enactments by the last legislature, and just seven had relation to county affairs. All of the different walks of life, the employer and the employees, the cities, the towns, the villages, the criminal law, provisions regarding courts, all of the different things affecting individuals, they are all there in great number, and those things that affect individuals with reference to boundary lines of counties were less than seven. So, to me, as a method of selection of representation, the county is a political absurdity. Now, you say you are afraid of Chicago. There is not a man here that has spoken his real thoughts as to what he fears from Chicago. He knows that there is nothing up there that would preponderate, in the way of political life, that would endanger the opportunities of men down State. He knows that the City of Chicago, like every other great city, affords a field for certain forms of criminality. It is not because the mass of the people are that type, but because there are opportunities for the criminals to propagate and expand in great cities and make a business of crime, so that the city is sometimes brought apparently into disrepute. But the great bone and sinew of the big town is just as ripe and sound as any man that works on the farm or lives in the country village.

I wondered as I heard that splendid address of yesterday in favor of the limitation of Chicago, as it ran along with the beautiful rhythm and splendid rhetoric, I wondered whether anywhere there would come out of that address the key to the thought or fundamental back in the mind of the orator delivering it, and at the close we found an address to the City of Chicago, addressed to its millionaires upon the boulevard, as though that was the place where the life of Chicago is. It may be that is what you go to view when you go to Chicago, and it may be an attractive part of Chicago, but the great mass of the people can be found in the cottages, by the tens of thousands, and you can see those masses of the people, not in the counting house, and the boards of trade and the stock exchange, but you can see them pouring by the thousands out of the factories and mills at the close of the day's work, men who live by toil, who live the life of labor and men who believe in this government and believe in the laws that maintain the government. And when you say you are afraid of Chicago as an entity, you build up an imaginary monster that does not exist, but the real thought, if I may say, back in your mind is the large mass of particular races of people. You say you have got a half million Jews in Chicago in your vote; you say you have got a couple of hundred thousand Poles; you have got one hundred thousand or more, probably two hundred thousand of the black men, and so on down the line, and you say that they are not Americans, they are not in sympathy with the American institutions.

Why, gentlemen, a foreigner in Chicago is as safe a man as can be found on the face of the earth. Have we ever failed in patriotism? Have we ever failed in humanity? Have we ever failed in our part, either as individuals or as a great community? I say no. The War Department enforced the Selective Draft. Did you hear anybody in Chicago whimper because they overloaded one million on us and some other community was getting the advantage in the saving.

Every young man that went forth to the war in Chicago stood right up to the line and stood right up to the line in money contributions to the war and all of the patriotic movements connected with the war.

Chicago may be the sixth German city of the world, but I tell you the German-American, burdened with the load as he was, burdened with the affection for his Fatherland, stood manfully to the task, and I know there

were more skulkers before the draft board in other races and in American born than you found among the German-American population, and citizenship, in the draft board where I had the honor to be the chairman of the legal advisory board.

So when you talk about the German City of Chicago, remember they are law abiding; remember they believe in work, they are industrious and they believe in this government and they will shed as much blood and spend as much money and give as much sacrifice for the State of Illinois as any man that ever stood between the plow handles.

When I way a boy in my early days, my parents, thinking to improve my mind, presented me with a copy of Aesop's Fables. I looked at all those pictures and read the stories, and I confess when my father asked me what the moral was to the fables, I sometimes fell down and I could not see why he should say that was the real part of the story, but I remember there used to be a picture of a poor, shrinking little lamb, standing by the edge of a brook, and there was a snarling, masterly wolf eyeing the lamb. The wolf begins by charging the lamb with having said things behind its back. The lamb said, No, he hadn't done anything of that kind. Then I believe he charged him with his relations having done something which the lamb denied; then he charged the lamb with having muddied the water, and the lamb protested he had not even stepped in the water, and then the wolf said, "I am going to eat you anyway," and the moral was, and I remember what that was in that particular fable, that he who had the power to do a thing and was determined on doing it, could always find some kind of an excuse for doing it.

Now, yesterday I felt somewhat like the lamb, and afterwards I saw the splendid support that came here from fair minded men, I heard the truth spoken by the gentleman from LaSalle, and I heard the sound doctrines from Peoria and St. Clair, and along the line, and I thought maybe we were not in such a tremendous minority. Today, however, I find that the down State have attempted to appease the rest of the down State, so I don't know but what we are back in the lamb class, about to be put out of order.

Let me tell you, I am not threatening, I cannot threaten and I am not going to bolt, I am going to be here to the finish, until the last roll call is taken, I expect to be right here, but I want to tell you you are mistaken in supposing you are going to eat the lamb. It is goat, it is going to be the worst piece of indigestion the devouring monster will have. I can understand now some of the old pictures I remembered seeing, a missionary tied to a tree while the cannibals were preparing a kettle and a fire for his cooking. I remember that picture, and was wondering how the preacher felt, still I sympathized somewhat with the cannibals, because I did not like the preacher's connection with Sunday, which compelled me to put on a shirt and shoes and go to church. I understand now. You have the votes. We are ready to argue this, but in fairness I don't think you ought to put it through today. We have not had time to reconcile ourselves to this document. On the face of it, I don't think we ever will, because you are intending to limit us in both Houses.

You started out with the thought that it is wrong for Chicago to have supremacy over the State, now or in the future. It is just as wrong for the people down State to have supremacy over Chicago. We can argue and compromise and make as good a legislature in the future as we have in the past, but to give one person or several persons the power and not to abuse it, is more than you can expect.

Colonel Insull, in speaking of Abraham Lincoln, said, "Here lies a man who, clothed with the greatest of power, never abused it except on the side of mercy," and we cannot expect consideration to be given by an overpowering majority from down State in Chicago matters. I can see your point of view in limiting us in one house, but I can't see your point or the fairness in saying that we should be limited in both. We cease to be represented satisfactorily, and you don't deny that, and you say, "But we cannot let go that power of control over you."

Do you think that is fair? We heard these representatives of farmers the other day tell us that they had an organization of 75,000 men that was increasing at the rate of 2,000 a week, the farmer, excepted from the Conspiracy Act in the matter of cooperation. I am not sure but what I am with the farmer, I think the Conspiracy Act is a failure, so far as it prevents cooperation, but the farmer got from the legislature his exception and exemption. At Washington he did the same thing with the Lever Act, and two Federal Court judges have been obliged to declare certain sections of that act unconstitutional because of the discrimination and favor of farmers. Now, you ask us to trust the farmer. I would trust the farmer as quick as I would anybody, but I would not trust anybody to have unlimited power over my destinies, political or otherwise. We will trust our mothers, but when we get through trusting our mothers, we are just about through with the rest of the world, and that statement comes after a life of many sad experiences, and I think most of you gentlemen will agree with me. I say to you this is an unconscionable thing and an unfair thing. You talk about basic principles. I have heard basic principles argued about and heard men quote Hamilton and Jefferson, and God knows who has not been quoted, from Moses down, on the subject of what are basic principles. I have heard so much about the great senates of the past that I wondered if I believed in reincarnation if I would not be able to look around here and see reincarnated the forms of Hamilton, Thomas Jefferson, George Washington and Abraham Lincoln and all of the rest. Not believing in reincarnation, I have not been able to pick out those spirits yet. I do not believe I will, but I think maybe some of you feel yourselves inspired by this contact with the outside world, or the world outside of this. But I say you are mistaken, gentlemen. This is not inspiration that leads you to say, "We are going to put the shackles on Chicago, and we are going to control the legislature, not only for ourselves but Chicago for all time." No, that is not inspiration, that is something else. If we haven't the right to representation, and that is not our inborn right, then we have been lied to about the Constitution and the principles of United States government and other basic principles represented by the great men of our country. I know the definition in the statute books which says that which a man takes and carries away which belongs to another with the intention of depriving the other of that, that constitutes an offense against the statute in such case made and provided, and you cannot do anything else about it.

I once went over one day to the North Side in Chicago, and I talked with a most unfortunate man coming from the south end of Chicago. He was a widower; he had killed his little boy, five years old, with a corn knife. He was insane, of course. Mr. Whitman, who was then the jailer, called him down to the office and said, "I would like to have you talk with him. I said, "How did you do this?" and he said, "I am a prayerful man, I am a just man, I attend church and I believe in God; I lost the mother of the little boy," and he said, "I seemed to hear voices all of the time, 'Slay your son,'" and then he said, "I thought it was the voice of God speaking to me as he spoke to Abraham of old," and he said "I heard it for days, and I thought to resist, and I resisted, and the little boy went over to visit one of his relatives and came home." He said, "I was out working at the wagon, piling on the corn, and the little boy came running towards me and I thought I heard the voice say, 'Slay your son and prove your love of God,'" and he said, "I slew him, the dearest thing I had in the world, and when I had slain him and the little fellow fell dead at my feet, I knew it was not the voice of God that had spoken, it was the voice of the devil."

Gentlemen, it is not the voice of inspiration that says you are going to step on Chicago. It is not the voice that comes from any spirit of the departed past. It is not anything that they ever taught you, nothing you ever learned in fairness, nothing that ever came from on high, but it is an ignoble spirit of selfishness, an attempt to dominate over your fellowmen, that I am sure on reflection you will not wish to impose. I know you men down the State are just as square and fair and just as mentally able as any of us that come from Cook county. We might in your position be just as de-

terminated and perhaps more prejudiced. I am not contending that, but let us play this game fairly, let us make it fair, not only for we who live today, but for those who shall come after. Don't deceive and delude yourselves with the imagination of this city on the lake or what it might do to you or yours in the day to come, don't carry that away or carry it longer in your hearts. We are just as human and just as kindly regard our fellowman, we sacrifice as much in every line of social endeavor as everyone, and I hope we are big enough, our souls are big enough to work in harmony with all the people of Illinois, and that we as a united body shall legislate through our legislature.

Now, don't let us go back and say to our people that we had this imposed on us. Don't let that thing rankle all of the years, because it will. Don't let anyone tell you it won't. We have seen enough to know what will happen when it is done, and everybody in Chicago has that degree of comprehension and will understand and will understand clearly what has happened to us, and we may be obliged to acquiesce in it, but we will never say that it was fair and we will never say that it was square, and we will never say that we were overtaken by anything that we ever did or did not do, and we will say too, that we never would have done that in a similar situation to our friends and representatives down State.

Mr. TRAEGER (Cook). I for one appreciate very much what the committee did to try to bring about a condition that would be satisfactory, so that we would be able to come to some agreement which we could feel was just.

I for one want to say to you that this new proposition in my estimation is no better than the original majority report. You leave us today in the same position, limited in both houses.

I am sorry that the delegates who tried to be fair have not seen fit to feel that Cook county was entitled to consideration as well as was any other county within this State. If you had come along with a proposition wherein we were not limited in the lower house, it would have been a different proposition. And I want to say for one that the delegates of this Convention, when this committee retired, I believed, honestly believed, that that would be the report that would come out of it. What object is there for us to vote on this proposition? We are absolutely tied in both houses, and, if you please, a minority in both houses. We at no time can get a majority, of 153, but to the contrary one less, which will leave a majority in the State outside of Cook county. Now, where is there any satisfaction for us to go home to our people and say to them, "We have done the best we could."

Gentlemen, I try to be fair and I want to be fair in all my dealings, with mankind, irrespective of whether he resides down State or in the County of Cook. I want to say now that this has not been fair, in my estimation. You may think, you gentlemen down State, that you have the votes, and you may boast after you defeat us that you have defeated Cook county. If that is any satisfaction with which to leave this Convention hall and go home to your people, may God speed you, and I hope it will be your only satisfaction. I want to say to you that the first delegate from the Fourth Senatorial District of Cook county will not go back to the City of Chicago and say it was the best we can get, and I am satisfied, because I cannot do it, I will have to say to them that I was punished with the rest of the delegates of Cook county because I had been unfortunate in my life time and had resided within the boundaries of Cook county. And I want to say to you now, we have plenty of time to remedy this, all we ask of you is a fair proposition; if you want to crowd, and you must crowd us, then crowd us only in the one house, and put us on an equal footing with our population at least in the lower house. We would then not have a majority at this time, which you all know full well, but with the increase of population admitting it may be within twenty or twenty-five years, or even sooner if you please, we will then only be in a position to say we have only one house, and you always have the other house to coop Cook county if they are so dangerous.

Gentlemen, let me say in conclusion I do not want to stand here and take up your valuable time, but a great many of our men today have left and gone back to Chicago. I don't think there is any question of your defeating us at this time, and I do not believe it is fair to even vote on this proposition at this time. I do not believe it is just, and I believe you men are fair enough not to take advantage of us at any time, and even vote if we were all here. I believe you may have the majority, but I want to say to you as a citizen of Cook county, I want to appeal to you as men from down State, that because you have us throttled, don't take advantage of that to be unjust with us. Give us as much as you would expect to get, and that is all we are entitled to. And, I hope, gentlemen, that if a vote is taken at this time, you will so consider this important matter that you are about to vote on, and remember that Cook county has as good citizens as has any other county within the borders of this State or any other state in the Union, and that we should not be discriminated against simply because we come from Cook county. Justice is good to all of us, and if I and the rest of us from Cook county must be punished because we were born there and live there, and you have the majority to do it and you see fit to do it, you will have to proceed along those lines and we will attend to the work later on.

Mr. GALE (Knox). I have listened with a great deal of interest and regard to the speeches made by the gentlemen from Cook, for whom I have the highest regard, and if I may say so, a good deal of affection too, but it does seem to me that these gentlemen overlook some of the important things to be considered in formulating a basic law upon which our legislation shall hereafter be based.

It is true our form of government is built upon representation. But, Mr. Chairman, when a man votes, he represents two interests, he represents his own individual interest as he should, and has the same weight at the ballot box as every other citizen of the State of Illinois, no matter whether he lives in Chicago or Cairo, but he also represents another interest, his community interest, and when in one congested territory you put a large number of people, you give them one gigantic community interest, which has no right to over ride all of the other communities and other community interests of the State of Illinois, and it is for that reason it seems to me that it is right and scientifically sound to limit the representation in the law making body of every community, no matter what it may be, when it grows so large that it may be a menace to the rest of the state.

It is not a question of the character of the citizenship of Chicago. The man is insane who will get up and say that on the average the citizens of Cook county are not as good as the citizens of any other county in the State of Illinois.

We see scare head lines of crimes in the newspapers, and we in Galesburg think that there is an enormous amount of crime in Chicago, but we forget sometimes that there is not any more in proportion to its size than there is there or in any other city in the State of Illinois.

It is not, I say, a question of the character of the citizenship, but it is a question of their congested community interests.

Furthermore, Mr. Chairman, the distinguished delegate from Cook said it was not fair to give the down State the power to injure Cook county, any more than to give Cook county the power to injure the down State, but the difference is exactly this: if you give to one man the power to be a tyrant over his fellowmen, that power he will exercise. That is what you are doing when you give the power to one community. When you gave it to the scattered communities of the State, it is like in the other instance of giving it to 100 different men, and that power there not being exercised at all. A majority of the 100 of them are convinced that the exercise of their power is fair and just. I have no desire to go home and boast that with the other delegates from down State I have secured a victory over Chicago. I am here to try to write just as good a Constitution as I can for the welfare of my State. I don't represent a district here, I represent the State of Illinois; so does every other delegate on this floor. And it is our duty, Mr.

Chairman, to write a Constitution which shall be fair to the State of Illinois and fairness to the State of Illinois demands that any congested community be restricted in its representation, because it is like giving all of the power to one man.

Another thing, Mr. Chairman, the legislation does not depend alone on the legislature or upon the senate or the house of representatives; it requires a Governor, and he is a concurrent part of the legislative body, with more power than either house has got, by reason of his veto, and measures to get over that veto have got to be passed by two-thirds of each house. And gentlemen, the history of Illinois for the last sixteen years has shown that from 1904 on forever the Governor of the State of Illinois will come from Cook county or will come because he is candidate of Cook county, though he may live outside of Cook county. It is a condition that we shall never get away from in this State, and having that hand of the legislative power already, it is only fair and right that Cook county should be limited. You say it should not be limited in both houses, you are given by this proposal a possibility of 76 members, one short of half in the lower house. Can any of you imagine for a moment that if you have a proposition affecting Cook county on which your 76 men can unite, that you could not get the other vote from down State to go along with you? Every man of you knows, that you not only could do that, but if you were limited to 50 men in Cook county, you could do the same thing. You are putting in your one community an enormous power, 76 times the power of any other district, but many times 76 times the power, because of the irresistible force of so many compacted into one mass.

I tell you, Mr. Chairman and gentlemen from Cook county, that it is not a question of being unfair with Cook county; it is a question of being fair to the people of the State of Illinois, and it is to your interest, gentlemen from Cook county, the same as it is to us down State, to feel that the power of the Governor and the senate and the lower house shall not be consolidated within the confines of one community in this State.

The proposal, gentlemen, is a proposal which it seems to me is meritorious and ought to receive the vote of every delegate to this Convention.

Mr. MICHAL (Cook). Mr. Chairman and gentlemen of the Convention: I do not want to appear to be a stumbling block or anything like that, but I expressed myself yesterday that this is a matter that we as Americans and citizens of this State should not compromise in. I cannot see any reason for compromising. In my district, my people expect me to do what is fair, what is square and what is American. I haven't any strings tied to me at all, and for anything that I do here I am accountable not only to the people of my district, not only to my friends that aided me in getting to this Convention, but to the people of the entire community, the entire State of Illinois.

I am willing to go along with the farmer if I think the farmer has got it coming to him. I am willing to go along with the humblest citizen and lend him support, and I have no fear of being questioned for my acts anywhere, and I need to offer no apologies nor do I propose to offer any apologies for any actions I take in this Convention or anywhere else, but it seems to me gentlemen, in the spirit of fairness, you are not meeting us as Christians. You are looking on us fellows from Cook county as a sort of an aggregation which is allied with Trotsky and Lenine. I say that advisedly. I say in the spirit of Christianity and in the spirit of the religion of your mothers you are looking on us as Socialist outcasts. Why, I don't know.

I want to tell you something, the delegate from Knox says we always get the Governor. I do not know how true that is, we did get a few Governors, I guess. I know of one in a long time, and he was elected by us. The other man I do not know whether he came from Cook county or whether he came from down at Pulaski county, I don't know. He happened to be a member of my party, but I did not subscribe to his views. I don't subscribe to his views now. I don't want him, so far as I am personally concerned, accredited with being a product of Cook county. I disallow that

right now, but I say to you, my friends, you have had a Governor for eight successive years from Cook county and his records of achievement have demonstrated that he has been most kindly to everything outside of Cook county.

I don't know what you get in State administrations, nor do I care, I am not interested in where a man comes from, I am not interested in what his religion is, I want to know if he is at heart a good man, and if he will do fairness by his fellowmen. But the moment I discover he is biased, that he wants to do something that is inimical to even one man, then I say that we have reached the line of demarcation, and I say that man has got to be watched, and I am going to ask for the blessing of the Lord to keep me safe from him.

I want to call the attention of the delegates assembled here that we haven't any right to bargain the rights of our fellowmen to representation on a fair, honest basis, anyway. I cannot go back to my district, I cannot go back to the City of Chicago and say that I compromised the rights of the citizens of that great city to representation in their legislative body. What right have I got to do that? Where is my source of power for that? Why, it is ridiculous. I say to you that with a limitation of representation you are only paving the way for an iniquitous political gang to operate and control and dominate party politics, and want to say to you that the people of the City of Chicago are getting tired of political squabbles in their State and governmental affairs. They look to an intelligent and deliberate body of freeborn men to deliver them from these political sauce-balls, and if you think you are going to impose a limitation on us and place us in a political perdition, I say that the day of reckoning will come and some of you will regret it.

I honestly appeal to your sense of fairness as men to give us that which is American, equal representation, without regard to geography or territorial limits. Give us that which the people have fought for these many, many years. Perpetuate the principles of Americanism, of freedom, and do not tie us to a post and keep us within a little radius. I am unalterably opposed to the proposition that is submitted and up for consideration at this time.

Mr. ELTING (McDonough). I think we are laboring under some misapprehensions. Before the Convention was organized I refused to join in any conspiracy against Cook county for the reason that Cook county was a part of the State of Illinois, and looked to me just like any other county, only it was a very large county.

I think our purpose as delegates to this Convention is not to single out any portion of the State and say that we are for or against that section, but to consider the matter as a whole; that is, what to the best interests of the great commonwealth of Illinois. If I should come here asking some special favor for the Thirty-second District, I would not expect to get very far with it, unless it was something that was of interest to the other districts of the State, and I think the misapprehension that we are laboring under is, as some of the speakers show, in assuming that because Chicago is a large city it will continue to grow as it has in the past and eventually it will be limited in the legislature. Certain speakers from Cook county have stated that the fears of the down State people are merely chimerical and groundless. Down State people have a fear from their argument that Chicago is going to impose some burdens on the down State. Now up to date I do not know of a single instance where Cook county has imposed on down State, or the downstate has imposed on Cook county, and I join with the ones speaking to this Convention that I, for one, am mighty glad to be one of this Convention, of the high character and caliber of those that appear as delegates to this Convention. It is not a question of equality of manhood. It is not a question of wealth. If it is anything, it is a question of public or governmental policy. Can we assume that Chicago is going to finally contain all of the population of the State, or might we by the same argument assume that East St. Louis and Peoria and the City of DuQuoin or Bloomington will? Cities change. When the first Constitution of the

Convention was held in this State, Cook county was a part of Pike county, and in 1822 a map was drawn of the northern portion of this State, and Pike county consisted of that portion adjoining and lying north of the Illinois River, and Chicago was marked as a village by the lake, containing some seventy inhabitants. Now in less than one hundred years Chicago has reached the enormous size of nearly three million population.

Now, if we listened to the arguments made here on deep waterway, we have no reason to doubt that in the next fifty years or in the next one hundred years, that East St. Louis or Peoria or any of those cities may become the metropolis of the State of Illinois. That is a matter of conjecture, just the same as if we assumed that the down State is going to impose on Cook county. Now, we do not want to do that. We want to be fair, but I am afraid that as to the idea of fairness, we cannot agree on it. I want to be fair.

The distinguished gentleman from Cook spoke of the ordinance of 1787, and he says we will violate the principles enunciated in that document. Whether Chicago is limited or not, we have the right of habeas corpus, we will have the right of trial by jury, and we will have proportionate representation.

Now, here is where we seem to disagree. My contention is that we have proportionate representation in the majority report from this committee. We here argued on one side that it is not right for Putnam county and these other small counties to have representation, and in the same breath we say by limiting Cook county we are denying people the right to vote. From the beginning of this country, representation has been from certain districts, and when the states have not apportioned the districts, they were selected some at large. The argument might be true if you were electing all representatives at large, but we do not do that. I say it is just as important for Putnam and these small counties to have representatives as the large counties. Why? I say that may be the very reason they are small counties, is because they are not represented in the General Assembly. There are good people living in those counties just the same as live in Cook county, and I am finding no fault with people living in any part of the State, because I think this is the grandest State in the Union.

Now there is another thing, density of population. If I was called on to give any reason why Chicago should be limited I could not give it, and I am going to be fair about it. You know, Ingersoll said, in speaking of men in the cities, not the quality of men but their influence, he said, "The man in the city is an atom of aggregations, and the man down State is an aggregation of atoms." That is the way he put it.

I do not mean by that you have any less ability in Cook county; no, I say the fact that you have an aggregate of three million people, you have in that group some of the best minds in the world. That is absolutely true. You have great men down here representing that city, and I say, gentlemen, by limiting Cook county to one-third you cannot limit the influence of Cook county, by limiting the representation. It is not limiting the political influence of a large city. Give me one-third of the votes in a corporation, and if I am fair, I will have a whole lot to say about the running of that corporation.

Now I do not think there is any animus in the people down State in asking that Chicago be limited. I think first they are following the custom of other states that have large cities within their borders, and as it has been said on the floor, most of these great cities in some cases have asked to be limited. I think you have nothing to fear from down State. I have not seen anything in this Convention up to this time where it was even intimated from the other side. I think the members of this Convention want to give Cook county everything that they want, and up to date and up to this matter I do not know of the down State refusing anything Cook county wanted or needed.

Mr. HAMILL (Cook). Will the gentleman yield to a question?

Mr. ELTING (McDonough). Yes.

Mr. HAMILL (Cook). Why haven't the representatives down State performed their duty in redistricting the State in the last twenty years?

Mr. ELTING (McDonough). I have not been a member.

Mr. HAMILL (Cook). You say we have nothing to fear from down State. Answer that question.

Mr. ELTING (McDonough). I suppose that was just on this imaginary fear that has been talked about.

Mr. HAMILL (Cook). Yes.

Mr. ELTING (McDonough). But we have elected a speaker of the House from Cook county; why don't you ask him?

There is another thing, gentlemen, that has been suggested by another speaker in the course of his remarks. You have elected a Governor for sixteen years. You have half the United States Senators, you can get them both if you go after them. You can elect every elective office in the State, and if you are not limited it will probably be so. You can elect or dictate the election of all the elective officers in the State outside of the judiciary. Then you will control the executive, and you will thereby control the legislature. And if you desire, we will let you control the judiciary because we get some good judges from there, too. I don't take any stock in this propaganda that was brought to this Convention from Cook county that the judiciary should be appointed because they could not depend on the electorate. I don't take any stock in that, although I asked one of the speakers who had said the judiciary was failing in Chicago, or the courts, I asked him in what particular and did not get any answer. Now, I suppose the legislature—I won't speak for the legislature because I have nothing to do with it, and I think the proper man to tell you about why we did not re-district the State, the speaker, will be able to tell you better than anyone else, but if I had anything to do with it and I had been a member of the House of Representatives and if it came to a vote to redistrict the State, under my oath I would vote to redistrict it regardless of consequences. I think if we are going to have a Government of, for and by the people, we must follow the law as we have it. I think, after all, our fears are largely imaginary.

I repeat, in the natural order of things Chicago will elect all our State officers, and if they are not limited in the Senate and in the House, they will control the political status of the State absolutely, because their political influence will not be limited in the least, that is, their political power, and the officers down State that they do not want themselves they can dictate people to fill the offices that are to be filled.

Now, I think it is fair, and I think the more the members from Cook county think about it, they will say so; we feel that Putnam county, down here, and these other counties, and this county up here by Kane that hasn't any representation, we want to be fair, we will say, give these men a representative. Why not?

Some criticism is made because we speak of the county. The county is the next lower unit in the State organization. The county government is a little government by itself, and we are represented in the General Assembly if not by the particular county, we tack on to some other district. I know a man up here in the northwest part of the State, a representative from Henderson county, and he has to do all his electioneering up in Rock Island and Moline. He told me with his own mouth that he did not represent his own county at all, simply because the interests of the big cities and the requirements of the county did not coincide.

When we are trying a lawsuit and we haven't any decision of our own State to guide us, our courts accept the decisions of other states. Up to this time there has been no limitation on any county in Illinois. Your next precedent is to go to other states and see what has been done in other states where they have similar conditions. And when we have done that, we go back to reason out and see if there is force in having representation from each county. We are not discriminating between any county in the State of Illinois on that basis, and I think we have been fair to them,

because we say the representation shall be increased according to population, one new representative for every 50,000 votes. That does not discriminate against Cook county, any more than it does against Putnam county, and I say that the apportionment is not a miscarriage from the Ordinance of 1787 as suggested, in its apportioning of representation. I feel, Mr. Chairman, like this, that after the people from Cook county consider this matter a while, I haven't any letters, I think there are plenty of people in Cook county that would welcome a reasonable limitation. The first statement that I made on this proposition was that I was in favor of a reasonable limitation, and I do like that word used by the distinguished gentleman from Cook, "adequate." I think we should have adequate limitation. It would not be any use to have limitation that would be a farce; if you are going to limit them, let us limit it adequately; if not, let us let it go, as some of you desire. For my part, I am not afraid of Cook county or I am not afraid of the State of Illinois, because I think it is one grand commonwealth, and I think our duty here is to the entire State, and not to any particular county, and I think the smaller counties should be represented the same as the larger ones.

Mr. HAMILL (Cook). Mr. Chairman and Gentlemen of the Committee: I am in full accord with the suggestion made that this matter should be debated by each man who sits on the floor, not as a delegate from his own district but as a representative of the State, for while he represents in a measure the people of his own district, he should never discuss any subject only from the point of view of the people of his own district, and I trust when I finish the very few remarks I wish to make you will all believe I am actuated by that spirit.

I think I need not take time to say how we from Chicago appreciate the kind words uttered by you men from down State towards us in this debate, nor need I take the time to reply in kind. We have learned to know each other pretty well in the past five months, and I am glad to say that we have come to like each other and trust each other.

There is no question in my mind of the earnest desire of the men who retired this morning to submit a compromise measure, and to submit something that was fair. I am glad to say in many respects it is fair.

Theoretically I believe in straight representative government. I do not sympathize with the force of you down State men's argument as to the congested population of Cook county. Perhaps it is because I know it better. I was born there a good many years ago and lived there all my life. I know the people of Cook county pretty well, and I haven't any fear of them. I feel confident you need not have any fear of them. I recognize the difference in the point of view. I recognize that all that was said in the very able address by the delegate from Schuyler is an argument against the minority report that was voted down yesterday. I heard not a word in the course of that eloquent address which I could torture into a support of either the majority report or the present compromise measure in its entirety.

I have heard only one sound argument for limiting Cook county in both houses; that argument was absolutely sound, if the premise was sound. The distinguished gentleman from McLean yesterday afternoon was quite frank with us; he said the real reason for limiting Cook county in both houses is that the population of Cook county is not fit to vote. Now if he is right his conclusion is sound. He said, measured man for man the electors of Cook county cannot match up with the men of the down State, and he proved it by saying that in the fall election Cook county went 78,000 in favor of the Initiative and Referendum. Well, that is pretty conclusive proof.

In 1902 McLean voted 6,705 to 1,602 for the Initiative and Referendum. Nearly 80.8 per cent in favor. In 1904 McLean county voted 7,059 against 1,667 for the Initiative and Referendum. Only 84.3 per cent in favor. In 1910 McLean county voted 6,024 for and 424 against, nearly 92.9 per cent in favor.

It is fortunate, gentlemen of the Convention, that this Constitutional Convention was not called in 1911, because then we should have had to limit McLean county. So much for the only sane argument made in favor of limiting Cook county in both houses.

Now, gentlemen, I want to be serious a minute—that is just fun. I believe that it is theoretically unsound to put a limitation upon any district in the State, upon all its representation, upon its representation in both houses. It does violence to the sound theory of government, the theory that has been accepted so long. I would not waste any time discussing proportionate representation any more than I would debate the multiplication table or the Ten Commandments, but recognize that we are now face to face with a practical political situation; that sort of a situation which we Anglo-Saxons from time immemorial are in the habit of meeting by compromise. The difference between us and the Latin people is that they will take hold of a theory and run it to its logical conclusion, while we Anglo-Saxons, in governing ourselves, have never adhered in any theory in its entirety, but we have whittled away here and there, as necessity has arisen, in order that we might go along. Our history and England's history are full of compromises. I depart from your theory that we should be limited in either house, but I recognize that there must be a limitation, if we are going to turn out anything. I recognize you men down State have made up your minds that you are never going to permit the possibility of the control of both houses to rest in Cook County. Recognizing that a settled conviction of yours, I shall not waste time to combat it.

Now, your reason for that, if I understand rightly, is that you do not believe that one part of the State should ever be subject to the domination of another part of the State. You draw the line, not we. You set off Cook county from the rest of the State, not we. If you draw the line, it only can be upon the theory that there is a line of cleavage between Cook county on the one side and the rest of the State on the other. All right, I recognize your premise, I accept your theory. There is a division line between Cook county and the rest of the State. I accept your proposition that you will not permit Cook county to domineer over the rest of the State, and I say to you in return you cannot expect Cook county to submit to domination from the rest of the State, if Cook county has a majority.

Now, this plan as submitted cuts down Cook county's representation in the Senate below the plan suggested yesterday. Instead of 19 out of 51 Senators, it is suggested that we have 19 out of 57 in the Senate. It further reduces the representation, because it bases the representatives in both houses upon the electorate, and not upon the population. And you all know, as I know, that there is a larger percentage of aliens in Cook county than in other parts of the State. There is a larger percentage of the population not electorate in Cook county than the rest of the State. Therefore, if the representation be based on the electors rather than on the population, Cook county will suffer in the ratification more than any other part of the State.

I say it is debatable whether the better form of government is on the population or electorate. There have been people advocating both theories. I do not consider it vital one way or the other, nor am I concerned as a delegate from Cook county with the slight difference it will make in the General Assembly. I for one am willing to accept that reduction; I for one think the proposition can be made satisfactory and will accept the reduction resulting from the increase in the number of Senators from 51 to 57. I am willing to accept one of the senatorial provisions, and I am ready to accept all of your proposed Section 7 except the last three lines.

Now, it has been argued by the distinguished delegate from Mercer and the distinguished delegate from Knox that not for a long time, if ever, will the last paragraph of Section 7 be operative. It has been further argued by the delegate from Knox, even if it is operative it is only academical, and that as a practical proposition Cook county has 76 members of

the lower house and it can always get the remaining vote. Maybe he is right. Let us assume for the moment he is right; then what good does it do in there except to put a slight on Cook county?

In the sound principles of good government, it is useless and the sentiment that will result is a serious one. We delegates from Cook county cannot, some of us, go back to Cook county and justify ourselves in voting for this proposition. But if you sustain the motion of the gentleman from Cook and strike out the last three lines, I doubt, gentlemen, if you will find one single delegate from Cook—I cannot speak for them, but I talked with many—I doubt if you will find one single delegate from Cook who will feel that he cannot go back and justify or urge the adoption of your Constitution, as he could not if you leave in that limitation.

Now, if the gentleman from Knox is right, it means nothing, it will accomplish nothing; in any event it will accomplish nothing for a long time, but the people back in Cook county will say to us, "You have bartered away our rights, have been untrue to your trust, and we will not support the Constitution that is being turned over to us. You have not done what you ought to do." Gentlemen, if you will strike out the last three lines, I will do what I can to have this adopted.

I will do what I can to have the rest of the Constitution, if it is as I expect it to be, ratified. With those three lines I cannot give it my support.

Mr. KERRICK (McLean). In reply to the remarks of the gentleman from Cook concerning myself, I would like to tell you something that came within my hearing and observation in 1864 at Lacon, Illinois, on the occasion of an address by Robert G. Ingersoll to an immense audience during the second campaign of Abraham Lincoln for President. Robert G. Ingersoll in 1860 had been a Democrat and voted for James G. Buchanan. In 1864 he was a loyal, patriotic Republican and was a strong and eloquent supporter of Abraham Lincoln. In the course of his address he castigated the Democratic party very severely, so severely that an old friend of his, a moss-back Democrat, in the rear, said to him, "Bob, where were you leading us to in 1860?" Bob did not break a sentence, but said "Straight to hell. I turned back and you went on." And we quit being for the Initiative and Referendum about twenty years ago, while you kept on.

Mr. DUPUY (Cook). I should like to speak very briefly on the question now before us. Many of you gentlemen who are more accurate students of history than I am will remember the details of the occasion when President Lincoln met the Commissioners from the Southern states to see whether or not some plan could be formulated that would bring about peace between the two belligerent sections of the country. After a great deal of effort and a long time spent in attempts, Lincoln pushed out to Alexander H. Stevens, for whom he had a high personal regard, so the story goes, a white piece of paper and said, "Stevens, let me write at the head of that paper 'Union,' and you may write all of the rest." That is a good deal the way I feel on this occasion. We have had a lot of talk and wrangle and disagreement about this subject. I was very earnest in my opposition to this majority report; I believed it wrong in every particular and in every regard. I believed it violated the most fundamental principles, not only of the character of government, but of justice and simple right as between citizens of the different portions of the State. But now you have presented us here something I know was intended for a reasonable compromise of our difficulties. It comes very close to it, in my judgment. I have not started home yet; I hoped to have gone home on the afternoon train, but did not get away. I hope to sit here and expect to sit here until this matter has been reasonably settled to the satisfaction or approximate satisfaction of all the members of this Convention. I believe it can be done. I am not here to make that strong appeal to your sense of right and justice that has already been made to you, but I am assured in my own mind that the members of this Convention, both up State and down State, in Chicago and in the remainder of the State, desire to reach some result which will be best for all and reasonably satisfactory. Now, if you will only

take off these last three lines, I am ready to accept this proposition. Gentlemen, think of this and consider for a moment, consider it seriously; we all believe in constitutional government, yet for ten years we have been denied constitutional government in the State of Illinois. A plain mandate to the legislature to redistrict this State every ten years has been constantly and obstinately violated. There is no question of prudence or excuse for it, except the excuse of the exigencies—to accomplish something outside of the Constitution. It was wrong. Every man in this hall knows it was wrong. It ought not to have been done. The proper apportionment should have been made. If we are destined to go along continuously under the old Constitution without any reapportionment, I say in that respect at least constitutional government in Illinois is at an end. We are not living under the Constitution; we are not, and have not been for ten years. We are not having the benefits and the rights that it was intended to secure to us.

Now, gentlemen, we are trying to smooth this out and I hope we all approach it in the proper spirit. My idea is that we should come here with the intention and the purpose of satisfying the different interests and parties involved in it, and it is somewhat as though we were trying to conclude a treaty or a convention or agreement by which something will be substituted which is lawful and right, for that thing which has been wrong for the last ten years. You, I think, will agree with me that we ought to be able to find some reasonable basis whereby we can substitute an agreement between the parties in interest for this thing that has so long existed that should not exist.

Suppose, gentlemen, you had been deprived for ten years of your constitutional rights and were denied now in this Convention the proportionate representation which the Constitution of the State of Illinois gives to you? Now, that ought to be borne in mind when you come to deal with these people who have been deprived—that community which has been deprived—of the representation which the present Constitution entitles them to. We are ready to make an agreement with you or reach a conclusion to substitute something that will be satisfactory to the county which we represent for the thing which now exists but ought not to exist. I think if this clause is stricken out, which, as has been said, is mostly sentimental, we would not have any difficulty in reaching an agreement in ten minutes. Of course I regret that the total membership of Cook county in the Senate is limited to one-third of its total membership. I am not in favor of that and I do not wish to be so understood. If it is the common judgment of the men of this Convention, for whose wisdom I have the highest regard, that it is expedient, wise and proper that it should be done, I am willing to accept your judgment, but I do not want you to send us back to our county with a useless and meaningless limitation put on our representation in the House, which will probably never be effective or operative. I cannot see why it should be necessary to place that clause that we are now moving to strike out in the draft of this compromise, when you have two-thirds of the Senate at all times. Why should you need to have a majority of the House and two-thirds of the Senate? Why should you be guaranteed the majority of the House for all time to come, and two-thirds of the Senate? Two-thirds is an abundant margin to give you continued control of the Senate. You know very well no legislation can be passed which will be contrary to the wishes of the down State, when it has a two-thirds majority of the upper house of the legislature.

I appeal to you gentlemen to adopt the pending resolution, to strike this clause out, and if it should ever come about, which probably never will happen, that Cook county would have more than one-half of the lower house, what harm can come from it, so long as you have two-thirds of the Senate? We would be fairly content to go back to our county, I think, with the present limitation in the Senate, but to send us back with both limitations in the House and Senate is something that ought not to be asked of us. And I want to say further, and no one dislikes anything that sounds like a

menace more than I do, it is surely out of place in deliberative bodies, in my judgment—it is not intended that way—however you may vote here, however large a majority you have against us on this proposition, you should remember that this matter must go to the voters of the State of Illinois; you must remember you will send us back home with a handicap that will be very hard for us to overcome. It presents a situation to the people of Cook County that could easily flare up into very violent and general opposition to the adoption of this Constitution. I came here with a very earnest desire to serve the people of the State of Illinois, all of them. I did not come here to represent the Sixth District only. I would not have come here at all if I had felt that that was the limit of my duty and my obligation. I regarded it as the highest honor that had ever come to me to be sent to this Convention, and I am greatly pleased to have as colleagues and associates the men whom I see about me. A hundred times it has been said to me this was an inopportune time to hold a Constitutional Convention. A hundred times I have said in reply, "If you saw the character of men who have been sent to this Convention, your misgivings would disappear." It was my belief that the people of the State of Illinois, recognizing that in some respects that these times of agitation and trouble, were not an ideal time to hold a Constitutional Convention, had taken that matter seriously into their hands and had sent here the best representatives that could be found in their respective districts. I said to them, "You may have no fear that anything radical or extreme will come out of this Convention," and I said it with the utmost good faith and I believed it, and I have been justified so far, but I feel that my feeling on that subject would be weakened and somewhat disturbed if we are obliged to go back to Cook county and tell our people that we have so serious a handicap as this in both branches of the legislative body. I hope that will not prevail. I wish that the spirit of compromise shall guide the feelings of the men from down State, and that they may be willing to sacrifice to us as much as this small sentimental provision, that probably never would be in operation, and remove the reproach to it as it now stands. Consider it from our standpoint and accept the compromise.

Mr. WOODWARD (Cook). Mr. Chairman and Gentlemen of the Convention: I have sat in my seat for the past five months and watched carefully anything and everything that took place in this Convention. I have met each and every gentleman who resides in Cook county and those who reside outside of Cook county. I have made perhaps as great a sacrifice as any man in this Convention, but it has been well repaid by coming in contact with the gentlemen it has been my pleasure to meet.

I am in favor of this proposal, provided, however, you eliminate the last three lines. I looked around this Convention hall on yesterday and it seemed to be a blessing from God that the picture of Lincoln was covered when we tried to perpetrate on the people who reside in Cook county something we should not have tried to do. I believe, gentlemen, you are fair and square at all times, and under any and all circumstances you ought to render unto Caesar the things that are Caesar's. Give us what rightfully belongs to us, and that is all we ask of you. We are willing to be limited, if I may say it, in the Upper House, but we ought to have our fair and equal representation in the Lower House. Eliminate the last three lines and we will go home to Chicago satisfied that the duties which we have undertaken have been well done, not only by the men from Cook county, but from the generous men, the good, generous, noble men it has been my pleasure to meet from outside of Cook county. Then we unveil the statue of the brightest star that this State ever produced, and you can consistently again look him in the face and say, "Well done, good and faithful servants of the State of Illinois."

Mr. SIX (Pike). I agree with the gentlemen from Cook and Knox that the clause under discussion is not a restriction upon the representation of the City of Chicago or Cook county, for the good and sufficient reason which the delegate from Knox stated, that the massed vote or spirit of the

representatives of one given county has an influence greater than the more members scattered throughout a greater territory, whose interests are more diverse, and if you eliminate the matter of restriction in the House of Representatives, you have left a restriction which you place by virtue of the proposition in the Senate. That would give 57 members in the Senate, 29 members necessary to carry a proposition. Chicago and Cook County start with 19 members, that means all that is necessary is 10 votes to give Chicago domination of the State of Illinois.

Gentlemen, do you know what is meant by the proposal here, regardless of whether or not you struck out the three lines under discussion, if you give to one community of the state that immense power, you are going to have to answer the people of the State of Illinois for your actions.

Let us look to the proposal. Yesterday a majority of the legislative committee, working for three months, more than three months, reported out a proposal based on the following forms of representation, for every county, which meant each county, then representation by population, and third the proposition that no single community was to control. Now over night a compromise is proposed by which you eliminate thirty-six counties, political units, not so densely populated as others, but eliminated forever practically from representation in the popular branch of the legislature. You have changed population to electors, which is some relief, and you come back giving to one community absolute domination of the State.

What has happened that can bring this committee to that proposition? Can a few hours' conference account for the violation of the principle of every community being represented, and passing to a single community the domination of a State? Gentlemen, I have heard it suggested that if this Convention down State is unable to get fifteen of its members to support any public proposal. If fifteen can be pulled over to support the one community idea, how long will it take the City of Chicago, with its tremendous business interests extending down State, the transportation interests extending down State, the press, if you please, extending down State, always being able to present their phase of the question, and the State never getting a hearing? It is the densely populated district which is going to dominate the affairs of the State. Before you vote on this proposition on its merits, I wish you would hesitate and think it over, and see if you have been fair to that great, scattered constituency which most of you represent. I appeal to you, before you pass this proposal, that you think it clear through on the fundamental principles of government. Remember this, when thinking of that, the little isolated communities are so situated that they can never create and have a consolidated interest such as the one community has by the lake. Remember, further, there is no press which reaches that body of the voters. There is even the handicap of distance. There is not a meeting club in any one of these counties. You could not get any considerable number of the voters together for the purpose of co-operation. On the other hand, in the City of Chicago you can call a meeting, the parties may be reached by telephone and may be assembled at a given point in an hour or two, and the press the next day will distribute to the millions the result of that meeting. That is the influence that we fear down State. It is the situation under which the same type of men are living that makes it too dangerous, not that we would not do the same thing if we lived in the city. But are you able to overcome the situation in which you reside? I wish every delegate would think this thing clear through before expressing himself in favor of it.

Mr. MILLER (Cook). I hadn't the pleasure of being here yesterday to listen to the arguments; I was compelled to be away. I have not expressed myself on this vital matter, and I don't want to take much time to argue the matter, for I don't know what has been said here yesterday.

There are a few things, and only a few things, that I would like to say. I was very much interested in listening to the reasons which prompted the gentlemen down State to urge that it was right that the rest of the

State, not only Cook county should not control the rest of the State, but that the rest of the State should absolutely control the whole of Cook county, even though that population far exceeds the balance of the State, and one argument that I heard was the character of the population in Chicago. That argument did not appeal to me. It is true, that other gentleman said that was not the reason, that was not a good reason; another gentleman from down State, but the one gentleman from downstate argued that was the reason, the character of the population. That reason did not appeal to me, possibly because I know the character of the population of Chicago better than some of you down the State, because I have been in closer contact with it. It is also true, I think, that we in Cook county know each other better than we did three or four years ago. The war made a very great difference in that respect.

Judge McEwen has mentioned his service and the way he came in contact with others there in Chicago. In Chicago we came in contact with people during the war whom we had not theretofore come much in contact with. I think each man learned his neighbor, or someone following a different line, living in a different sphere, had just about the same love for his country and just about the same unselfishness, just about the same patriotism he himself had, and even we were surprised to learn that. I remember one little incident particularly that impressed me tremendously. There is in Chicago a corporation engaged in manufacturing men's clothing, it's name is known throughout the country; it employs thousands of men and women. They are mostly emigrants from foreign lands, largely Russia and Poland, and Lithuania. Few of them speak English. They belong to a nation which is ordinarily supposed to be very radical. Just about two years ago, a little more, during the darkest period of the war, after this concern had had considerable labor troubles, the executive officers one day were visited by a committee of the employees; the executives got together to withstand the shock which they expected; the committee was composed mostly of men who could not speak English. They chose as chairman one who spoke English indifferently. He presented his grievances, and he said in substance that they were satisfied with the patriotic decorations inside of the building, but that they would insist that an American flag should be stretched clear across the front of the outside of the building, and with that they ended their demands, and they were agreed to, and the committee departed.

When this Constitutional Convention was proposed, many people said it was an inopportune time, that there was much radicalism abroad, but to many of us it seemed that for the very reason I have mentioned, for the very reason that the men knew each other up there and trusted each other more and suspected each other less as a result of their associations during the war, for those reasons it seemed to many of us that this was a very opportune time for holding a Convention of this kind, and it does seem to me that it is a very inopportune time for the people from down State to suspect Chicago, or the people in Chicago to suspect the motives of the men down State. So the reason does not appeal to me, as it has to one of the delegates down State, that the population of Chicago is of such character that it ought to be limited in both Houses of the legislature.

Isn't it a little strange, gentlemen, if that is so, for this good reason that this committee report has been changed in just the way it has? Yesterday it discriminated not only against Chicago, but against the other large industrial centers of the State. Now if the character of the Chicago population, or their unity, as it has been called, is a good reason for doing it to Chicago, why wasn't it a good reason for doing it to every large industrial community down State? Evidently some thought it was, but the whole of your plan was abandoned. By so doing, haven't you abandoned that principle that the population of Chicago or their unity, because of their being largely an industrial population, is the reason for limiting the vote? The gentleman from down State has said with much candor, no doubt, that the people down State in their particular districts expect them to work

for the whole people of the State. I haven't any doubt of their sincerity when they say that, but I have wondered why it was that this report was changed so as to wipe out the discrimination against the very large communities. I wondered whether it was to get the other fifteen or twenty votes which one gentleman here mentioned, and whether or not those gentlemen were not, unconsciously perhaps, representing their own communities and their own interests? It has been suggested that if Chicago merely had one-half the representatives of the House it could easily get the rest. Why is that? Is it because Chicago can appeal to the fairness of the rest of the State? If so, why isn't it a good time and a good place to put that appeal into effect? I for one think there is no reason for limiting Chicago's vote in either House. I think the fear of the people down State is ungrounded. I realize, however, that it is a reasonable fear. I realize it is a natural feeling that the State should not be subjected to a possible domination by Cook county. For that reason I personally would be content with a limitation in one House only, and would feel if that kind of a provision were put in, I could go back to Chicago and with a good conscience and a good hope of success, advocate the Constitution, if that were the most serious defect in it. But I have talked, I believe, with every member in this Convention from Cook county. I am positive in my own mind there is not a single delegate from Cook county who would feel that he could go back and advocate the adoption of the Constitution if there be a limitation in both Houses, and I believe, gentlemen, if that plan is adopted, a very great error will have been made, and you will all realize it sooner or later. I think if the last three lines of this amended proposal were stricken out, there is nothing else there that we could not discuss, and feel that we were discussing a thing that men ought to agree upon, and that anything else would be mere detail. I am not prepared to say that I would agree to it as it stands with those three lines stricken out, but I would say that there would not be a single thing left there that we ought not to get together and discuss with every confidence in the world that we could get together on it.

Mr. W. A. JOHNSON (Bureau). I with the rest of you have been intensely interested in all that has been said on this floor. I wish to direct my thoughts along two or three lines, just briefly, and the first is this: It has been intimated that—not openly except on this floor—the restriction in the apportionment upon Cook county was not thought of by certain gentlemen until they heard it announced on this floor, and yet it has come from the lips of one of their men, complaining that for twenty years the General Assembly violated its oaths, and has refused to apportion the State, and the only answer for that refusal must come from the lips of the members of this Convention who sat in the Assembly, and the answer was this: To reapportion the State would give Cook county an additional representation in the State legislature. In other words, the answer to this question is this, and we all know it. The people of Cook county could have stood on that rock of 1870 for fifty years longer, but that is the very purpose for which the Convention convened. We might just as well face that as a fact, gentlemen, for it was the moving purpose that made necessary the convening of the delegates in this Convention of 1920. I see no reason why anybody should feel that we are here considering the other purposes for which we were sent, and yet it is said on the other side of this chamber that they cannot go back to their constituency and satisfy their constituency that it is just and right that a limitation should be put on Cook county, or any other section of Illinois, against it ever dominating the General Assembly, and the very reason now which you gentlemen argue on this floor that you cannot satisfy your constituency with this sort of a reservation furnishes to my mind the very reason why a limitation should be put upon any section of the people who are so united and so set in their purpose and deliberations and sentiments that they will not listen to the voice of reason which comes from their own delegates, as they go home and tell them of the action of this Convention. That is to my mind a reason, and a potent reason. It is not a question of criminality or dishonesty on the part of the people living in a given community why a restriction should

be put upon them, and I trust no delegate from down State will even insinuate that as a reason, but it is the community idea. It is the community of interests. It is the one interest that they have in each other, so that they take their places hand in hand, and their minds operate together and they stand as one man, and you furnish proof from your own lips when you tell us you can have no influence on them when you give them to understand that it was the voice of Illinois which spoke out in this limitation. Second, I have listened in vain for any word from any gentleman from Cook county, honorable men and great men as I think them, as I believe them to be, I have listened in vain to hear from any voice on this floor quoting a statesman of recognized ability in this country who will approve of your position here, namely, that a given community should be permitted to dominate a whole State such as Illinois. Is there a Choate in that Convention, is there a Root in that Convention or that delegation, is there a Seth Low? I have waited to hear him stand upon the floor and lift his hat and his voice even against the sentiment of his own community that this is right, and point his people to New York, to Rhode Island and Maryland and the other states in the Union where the great cities, the great centers are restricted in their power in the General Assembly. I might mention here a concrete case or two which shows you precisely what is in my soul on this subject. Take for instance a community, an industrial community, practically and strictly industrial. They think in their judgment, and I criticize them not, that the daylight saving law is the thing for the people, and they have turned the clocks ahead one hour. If you turn the clock ahead one hour, and apply this to the agricultural fields, you will starve the world. Another industrial community stands for the eight-hour law. I criticize them not for that, but if you apply the eight-hour law to the agricultural fields of Illinois, you will likewise starve the world. And that is just as true as you live, under the conditions under which the farms are now tilled. The men of the farms go to their toil at the plow handle at the rising of the sun, and it is not until the sun has done its work that they cease.

Now, gentlemen, can't we all see why, if there is fairness in the words of Choate, if there is fairness and reason in the action of the cities of the states in the east, where they have found it necessary to throw a limitation around certain interests located in a given section, and I care not whether it is Chicago or Princeton, Bureau county, Illinois, you can go back to your people and point them to New York and to Rhode Island, to the states where this rule has been adopted, and I have not yet heard an outcry from those localities against the rule. Tell them that. Tell them they live in America and that is the rule in America where people congregate in a given city, and their interest is a real one. Their interest is so united, their interests are so alike, that they vote and they live and they speak as one voice. I know your troubles at home and I am glad I do not have to share in them. I know your troubles at home are divided, I know that quite well, but I do know that when it is to the interest of that great, thriving, heart-beating mass of humanity there, when it is to their interest to stand together, one speaks the word and they all move. That is evident on the floor of this Convention. You talk about your not going home and satisfying them. Great God! what do you expect these other delegates to do? Have they no people to be satisfied? Have they no people who think they will look after their interests? Have they no people whom they regard as their own? Don't you think, gentlemen, the people down State are at least somewhat acquainted with what has been done in the other states with reference to the cities which has been referred to, and in that great, and I say matchless, address which was delivered here by the delegate from Schuyler—and it is a strange thing you students of history have not undertaken to answer that logical, that sound address and argument which was delivered by the gentleman from Schuyler. I heard a couple of delegates after that was over talking, and I think they did not know that I was near; they asked "What do you think of Schuyler's address?" and these two gentlemen were from Chicago. One of them seemed

to be acquainted with Holy Writ; he said, using the language of Paul of Agrippa in that great matchless address of Paul; he said this, "I am almost persuaded to be a Christian." I did not think like that delegate, though, myself, when I listened to the quotations of the great statesmen who have spoken. Now I ask you, gentlemen, in all fairness—I am trying as best I can to serve Illinois—I ask you in all fairness if any of you have in your minds a recognized statesman who has ever spoken on this question with reference to municipal communities and their limitation. I ask you to explain it and give his name.

Mr. HAMILL (Cook). I rise to answer the gentleman's question. If he will read the Debates of 1915 of New York's Constitutional Convention he will find plenty of statesmen who have spoken on it.

Mr. W. A. JOHNSON (Bureau). I ask you to quote it.

Mr. HAMILL (Cook). Lieutenant Governor Sheehan. You read his speech.

Mr. W. A. JOHNSON (Bureau). They approved it, did they?

Mr. HAMILL (Cook). No; because they were beaten.

Mr. W. A. JOHNSON (Bureau). Have the people complained?

Mr. HAMILL (Cook). Yes, most assuredly.

Mr. W. A. JOHNSON (Bureau). Who heard the complaint?

Mr. HAMILL (Cook). I did.

Mr. W. A. JOHNSON (Bureau). Here is a telegram from New York which says the people of New York, voting on the double limitation, voted in favor of the double limitation.

Mr. HAMILL (Cook). When was that?

Mr. W. A. JOHNSON (Bureau). In 1894. This is to the Secretary of the Legislative Reference Bureau. One of the delegates asked him to telegraph to Albany, New York, to find out how the vote was in New York City on this proposition.

Mr. HAMILL (Cook). When was this?

Mr. W. A. JOHNSON (Bureau). The day before yesterday. The vote was in 1894, and it shows the total vote for the Constitution in New York City and county was 67,408; against, 66,641.

Mr. DEYOUNG (Cook). Was that on the whole Constitution, or just on this question?

Mr. W. A. JOHNSON (Bureau). I don't know.

Mr. DEYOUNG (Cook). Let us have the facts, and not part of the proof.

Mr. W. A. JOHNSON (Bureau). It says on legislative apportionment; apparently it was on the single question.

Mr. DEYOUNG (Cook). You are not certain on that?

Mr. W. A. JOHNSON (Bureau). It appears that way.

Now, what I meant by that statement, gentlemen, was this: That there was no outcry that the people of this country have heard, and there ought not to be an outcry, simply for this one reason, that an industrial or any other sort of a center, where the interests are practically one, where they are voting as one, should hardly be expected to be left in a position under a Constitution to control a great State like that which we are living in now, or any other state, for that matter.

Now, it is said these people cannot be controlled. Let us carry that logic to its logical conclusion and see where we finish. If they cannot be controlled, and if they will not listen to these men, representative men, great business men, great lawyers, great judges who have been selected and sent down here; if they will not listen to them in reference to this matter, and the time should come when they could control the General Assembly, the only thing that would be left for the agricultural fields of Illinois would be to take their petition to High Heaven. If they will not listen to you in this simple matter, can you control them in the General Assembly if they have the power to control that body? May they not call up and legislate an eight-hour working day law; may they not turn the clock back. I am simply citing you to those things that you may know how their interests are so different than the interests of these farmers and diversified interests down here.

Now, it occurs to me, if you were to go to your residences and respective homes, why you could say, "Illinois has really treated Cook county more mercifully in this regard than New York has done, and Rhode Island has done, and these other states." Will that have no force? And then, again, you talk as though these delegates would have nothing to explain if they went home. I think I may say here, although I am not sure about it, that the down State communities expected a one-third limitation on both houses. So you see that their delegates are making a sacrifice in the proposition which is brought out. If the last three lines be sentiment, as you think they are, then let us have a little sentiment in the Constituion, and we may call it something else, but you can insist on it being sentiment if you please, to your constituency at home. A little sentiment is not hurtful to any man or any community, even should it find its way into a Constitution where it might live for fifty years.

Gentlemen, if you adopt this proposal as it is, it will do you no harm. It is already, I think, admitted upon this floor, while Cook county in the General Assembly has not been in the majority, I have the first intimation from any delegate on this floor to the effect that Chicago has not gotten from the General Assembly really all they ever expected. I don't know. I think I may prove that from the honorable chairman of this committee and the former speaker of the House. Let us not think that we are harmed then if we are walking in the lines which other states have set for us. Let me put a suppositious case and then I will quit. Suppose it was an actual fact in a given community in Illinois, the directors and officers of all the corporations and other people, their immediate friends and their stockholders, all lived in a given community, and they represented a majority of the corporation, you say it is not right to suppose that, but suppose they did, how many of the delegates in this Convention representing labor would oppose a proposition to limit that section? I cannot hear a man standing on the floor who would consent to a cluster of individuals whose interests were identical, bankers and corporation officers, who should be permitted to make laws by which you and your families should be governed in the State of Illinois, and you would not consent to it, not for one minute would you consent to that sort of influence. Suppose, on the other hand, they all came from the profession of the law, too many of them, perhaps come from that class now, I don't know; do you think that the people of Illinois would consent that they might make all of your law for you? I think not. We are talking here in the light of the things that exist. I know about the saying of our forefathers with reference to taxation without representation, but I take it you know this too, that they were not talking about a question like this which confronts us in this Convention then, they were not talking of that sort of a question, and you will live just as long as God permits you to live and there will be no people in any state in this Union who will hark back to that principle of our forefathers and invoke it with reference to a question identical with the question which we are here considering. I pleaded ignorance to the gentleman who asked that question as to whether I had read the arguments made in New York, but I venture the assertion that every single argument which has been presented to this committee as against this proposal was made there, perhaps with not so great weight because perhaps the difference in caliber and the makeup of the men Chicago has here to represent her, she has some of the great men, I concede that with reference to all of them, that they represent their constituency and I criticize them not. I have no fight with Chicago, but when you ask us to strike out the sentiment, you ask us to strike out the heart.

Mr. HULL (Cook). I don't suppose any word of mine will go far towards relieving the situation of that Chicagophobia which seems to have possessed the members from outside of Cook county, but I cannot but regret that the whole argument on the part of the gentlemen from outside of Cook county has been tintured with innuendo and wrongdoings. We are told that we are treated mercifully. Are we asking for any mercy?

Have we committed any crime? We have simply asked for simple justice, for all men are equal, and that government rests on the consent of the governed. The gentlemen said that the great voice of Illinois was speaking on this subject; are we to be excluded from Illinois? Haven't we been sharers in its glory, aren't we entitled to have some share in it in the future? We are citizens of Illinois and I hope we shall always continue to be, and we don't want to be excluded by any such suggestion, nor do we want to be put in the criminal class by any suggestion that we are being treated here mercifully. What has been our crime? Gentlemen, I respect myself as a man and a voter and I am not going to plead with you or petition you or beg of you that you shall strike out those last three lines. No, sir. I will take nothing, I will petition nothing, I will pray for nothing from you. We are entitled to simple justice, and nothing more, and justice would change this cruel provision. I will, however, advise you that those three last lines had better go out.

Mr. LINDLY (Bond). I did not expect to say anything on this proposition, but having listened to the gentlemen here who have been talking about the compromise and what has been sacrificed by the compromise, I just want to call attention to one thing. When we came up to this Convention from some of the smaller counties of the State, we were instructed by our people very strongly that we should stand for a proposition in this Convention that every county in the State should be represented in the legislature. Thirty-five or thirty-six of the counties of the State are not now represented in the Lower House. When this question came up as to compromise on this question, who made the sacrifice? Did Cook county make any sacrifice on this proposition, or was it those of us who came from the small counties that had no representatives in the legislature? What must we say when we go home, if you want to bring that proposition up? What must we say to our people when we go home, and they say to us, "We have no representative in the legislature? All of you voted to give a county in this State of Illinois twenty-two times as much representation as any other county in the House, and nineteen times as much representation in the Senate." What position can we take? I say that we are willing to make this sacrifice and go home to our people and make an explanation if necessary for us to make, we are making the sacrifice in the compromise, and not Cook county. I am willing to vote for this proposition, I am willing to give up the ambition, the desire or hope my people had, to vote for this proposition, that we might get somewhere, and I believe that this is the sentiment of the men who represent the smaller counties in the State, and I just want to say that we are making sacrifices for this compromise as well as you. I hope that we are successful and that this shall pass just as it is, gentlemen.

Mr. WARREN (DeKalb). I do not rise for the purpose of making any argument on this question, I rise principally for the purpose of stating my position, that it may be understood in the future just what my position was in this Convention. I will say briefly that if my vote could pass and put into force the majority report of that committee, it would be adopted. Why? Simply because your majority report recognizes community representation, simply because that majority report gives every county in this state an opportunity to be heard in the law-making power of the State.

The gentlemen from Cook county say to me in this Convention that "you are depriving us of a fair representation, or you are giving us only the vote of a two-thirds or a three-fifths man." I am here to say to those same gentlemen that you in many counties of this State give them absolutely no vote. Cook county will be represented in the legislature. Cook county and the City of Chicago will be ably represented in the future legislatures of this State.

I have no prejudice against Chicago or Cook county. I have talked to my people in regard to the delegates and the gentlemen who represent Chicago in this Convention, and they each and every one of them will tell you I have spoken in the highest terms of each and every delegate from

Cook county. I would resent any reflections on the citizenship of Cook county. So far as I now remember I know of no down State delegate that has attempted to reflect on the citizenship of Cook county. One of the delegates from Cook county, in making his argument, said it reminded him of the time when his father presented him with a copy of Aesop's Fables. As it happened, in my early boyhood days I read those fables, and I read the same fable that the delegate from Cook county referred to. There in that fable he places down State as the lion down below the stream, and Chicago as the lamb above the stream, the lamb that was muddying the water. I would not say it is a fact, but I will say to you gentlemen that probably there is a greater number of people down State think the lion is Chicago down the stream, and the down State is the lamb up the stream, and the lion down the stream is accusing the innocent lamb of muddying the water of the stream. I just reverse that fable. And I think I have made no more censure on the delegates from Cook than the delegate from Chicago made on the down State. Now, gentlemen, while I much dislike to do so, there are these men representing down State in this committee in whom I have confidence, and those men, after the question came up and after the argument was made yesterday in the Convention, saw fit, in a spirit of compromise, to go out and prepare a different apportionment for the State of Illinois. They gave me their reasons for that; it was in the interest of compromise, the interest of harmony, the interest of the adoption of the new Constitution. I am willing to accept their explanation and willing to go along and follow them and vote for the proposition which they have submitted, while I do that reluctantly. Chicago and Cook county is not the only county in this State. The citizens of Chicago and Cook county are not any more entitled to representation than the citizens of Jasper county. They are no more entitled to representation than the citizens of Putnam county. Yet doubtless with this proposal as proposed, many of these counties in future legislatures of this State will not be represented and will not be heard at all. And I am here to say to you that I live down in a body of small counties, and there is not that community of interests you have in one concentrated county, because the rural and the business interests of that community center around the county seat, and we only have slight communication with our adjoining county. I have thought it over, and I know of no delegate from Cook county that has worked himself up into a fever of fairness and justice that has come down and said to me, "We are willing to give your small county representation in the legislature, and to devise a scheme by which you may have it." They came to me with the arbitrary rule and the arbitrary force and the strength of numbers, saying, "You must abide by that."

Now, in my senatorial district we have not been so unfortunate as in many other senatorial districts. We have a district there of four counties, there are two large counties in the district, that is, comparatively large counties as compared to the other two; my county and Richland are both small counties, not so small as Putnam or Hardin, and I insist to you with the same fervor that you ask for representation for Cook county, in place of two-thirds or three-fifths of a man, I ask for you to give little Hardin some representation. Why, you take in many of these small counties, by reason of the fact that we have no member of the legislature, we are absolutely not in touch with the State administration. We are not in touch with the making of the State laws. Yet, sirs, we are allowing you to get seventy-six members in the legislature from the County of Cook; we are allowing you by the force of your numbers to dominate the nomination of State officers. We are allowing you by the force of your numbers to elect the United States senators, yet you express no sympathy for us down in the small counties. As I started to say, my district has been fortunate, but I want to say for the counties of Jefferson and Wayne that they have not been like some other counties in this State, that could combine and control the election of the senators and representatives; they could do that, yet they have never sought to do that. As a result, the four counties of the

district have had a member in the legislative body, with very few exceptions, since the time we have been in that district. Some member from Cook county today suggested that this majority report attempted not only to limit Cook county, but the other large industrial centers of the State, and I am here to say to you men of Cook county that if you will join with me and some thirty-five or forty delegates down State, we will not only apply that limitation to the congested cities of the homogeneous thing you have in Cook county and the heterogeneous population you have in some of the districts, but we will combine with you and we will pass the majority report, which will give not only limitation to the congested centers of Cook county, but other congested parts of the State. I myself believe in that principle. When I was running, someone suggested this was not thought of prior to our meeting. I am here to say to you when I was a candidate I went before my people and told them that if I was elected as a delegate to the Constitutional Convention I would vote for the limitation of the representation from Cook county.

I have reason to believe that that may have had some little influence in the vote which I received at that election, because I know not a single citizen in that district, be he either Republican or Democrat, who does not endorse that sentiment. Yet I want to say to you gentlemen from Cook county, that is not because of any prejudices that we have against you. I believe the great heart of humanity beats in Chicago as well as down State. I have known that many fraternal orders and State organizations have never joined in that thought. But I find the delegates from Chicago fair-minded and just men, and I am surprised that they have not recognized the justice of this demand from down State to limit or prohibit the only large county in this State from controlling or dominating the law-making power of the State. I say to you that it is a dangerous precedent and a dangerous thing to allow, in my judgment. I don't care if each and every one of you are law abiding citizens, I believe you are, the majority of you. I do not believe there is any more of that kind in proportion in Cook county than any other portion of the State, in accordance with the population. I believe the milk of human sympathy runs through your system the same as it does with the people down State, yet I say to you, the minute Chicago gets a majority in the law making body of the legislature, then Illinois becomes a part of Chicago, in place of Chicago being a part of the State of Illinois.

Now, I am proud of Chicago, and I do not want to give you any buncomb, but I want to say to you, as far as my vote in this Convention is concerned, and as far as what I have to say in this Convention, it is going to be in favor of keeping Chicago in the State of Illinois, and never going to the extent of transferring the State of Illinois into Chicago.

Mr. FIFER (McLean). We are now approaching the end of one of the most interesting and instructive debates that has occurred in this Convention, and we have the most important question for our consideration that was ever submitted to a legislative body of our great State. For the most part the debates have been in good temper. Some things we might wish had not happened, and I ask my friends from Chicago in the utmost kindness that if they do not think when they gave utterance to the statement on the floor of this Convention that if Chicago was limited in both branches of the General Assembly they could not go back to the city of their homes; I ask in the utmost kindness that if when they threatened, thirty-five of them, to resign from this body if certain things were done by the people's representatives on this floor if they did not incidentally afford some proof and some reason why the limitations proposed in this proposition should not be placed upon the people of that great city.

Mr. HAMILL (Cook). Will the gentleman yield to a question?

Mr. FIFER (McLean). Yes.

Mr. HAMILL (Cook). Who made such a threat?

Mr. FIFER (McLean). I heard it in the aisles, and heard it on the floor of the Convention.

Mr. HAMILL (Cook). From whom?

Mr. FIFER (McLean). I don't remember, but I think this whole Convention will bear witness to that fact.

Mr. HAMILL (Cook). Nobody has made any such threat in my hearing; no one has a right to make any such statement for me.

Mr. FIFER (McLean). Now, gentlemen, it surely was said that thirty-five members would leave this Convention. I would have regretted seeing you go. It is my belief if you had gone, after you had retired to your couch you would have awakened some time during the night and realized that nobody but a quitter was in that bed, and I believe you would have come back to us. We would have had the satisfaction anyway of knowing that you left with us a quorum to do business, and that we would have proceeded to make the best Constitution the State ever had or that we could get out of the ink bottle.

I had no fears that if you went away you would never return. We would have welcomed you back with glad hands. We would have killed the fattened calf, and after the feast was over and you had wiped the gravy from your lips, we would have removed the crepe from your chairs and invited you to sit down and begin business at the old stand.

Now, gentlemen, paraphrasing the language of the great Lincoln, we are not enemies, but friends; we must not be enemies, though passion may have strained, it must not break our bonds of affection. The mystic cords of memory stretching from the mouth of the Illinois river up through the Chicago channel will yet swell the chorus when the chords of our friendship are touched, as surely they will be, by the angels of our natures.

I have found another use to which the Chicago Ditch can be applied, that great artery of trade, dear to your memory and mine forever. It is to bind the great City by the Lake to the rest of the State. Now, gentlemen, I ask you in all kindness to look on both sides of this question. You asked us to explain to you why we should put limitations at all upon Chicago, and like the surf repelling rock, you stand on an apportionment based on numbers, on physical power only. No right, no justice, no other consideration, outside of the force of numbers. Now, look on the other side of the question.

Mr. MILLER (Cook). What is it you rely on to put it through here?

Mr. FIFER (McLean). What is that?

Mr. MILLER (Cook). What is it you rely on to put it through here?

Mr. FIFER (McLean). We are relying on the free representatives of seven millions of free people of the great, imperial State of Illinois.

Mr. MILLER (Cook). Representative in numbers?

Mr. FIFER (McLean). Yes, in numbers, but this is a legislative body, elected by the people of the whole state. Now, what is the demand on the part of our friends from Chicago? You stand solely upon the question of numbers, and if you have your way, what will happen? This State government is divided into three departments. You will take the Governor, all of the State officers and you will elect a majority of the Supreme Court of the State, and it won't be long until you will dominate the legislature, the third branch of the government. And it don't stop there; you will have the power of numbers to elect the two United States Senators. You will, by a like power, elect a majority of the Congressmen from the State of Illinois. Now, this is a State of diversified interests. Chicago is purely commercial. Illinois is the greatest agricultural expanse beneath the sun, and you propose that a wholly industrial people shall dominate and control the great agricultural State of Illinois.

Now, gentlemen, do you think that is fair? I stood for a representative from each and every county in this State. I know, gentlemen, some of you referred to the population of some little counties in Southern Illinois, and I thought, with some little degree of sarcasm. Now, I stood for that, and for what reason? The people of Southern Illinois are almost entirely an agricultural people. They are a home-loving and a home-staying people. They are the people of the fireside and the family. They represent that sturdy middle class which has in all ages furnished liberty her soldiers. They are the kind of people Abraham Lincoln loved. They are a fixture in

the community. They are not a shifting people; they are there, and they are there to stay, and right in that connection I will give this reason for limiting Chicago, not only in one house, but in both. The Chicago gentlemen have but to go to yonder library and read the record of the past, and they will find that in no single instance was the people's liberty ever destroyed by an agricultural community. They have been the toilers, the cornerstones of free institutions. In every instance, if you will read your records, in which a free people have lost their liberties it has been a country that was dominated by large cities, congested communities, without a single solitary exception. It was so in Athens; it was so in Rome. The Roman people were willing, if they could, to extend their political privileges to their subject provinces, but they were unable to do so because they had not discovered the representative principle in government. And what was the result? They robbed and they cheated nearly every nation in the world, and all roads led to Rome. They became wealthy; they became rotten and corrupt to the very core. In the eternal nature of things, they had to fall. Floating in their pleasure boats, with slaves holding over them their umbrellas while they discussed the campaigns of Julius Caesar, they deserved to be wiped from the face of the earth. It was so with all the free cities of Italy. It was so with Athens, and nobody understood that great question better than our fathers, who laid the foundations of our free institutions, but, how Hamilton and Jefferson worried over the great question of these overpowering cities which they saw in their prophetic vision would arise in this great land of ours. Jefferson sought to avoid the danger arising from congested communities by being against the tariff. He said that the tariff produces great cities, and that representative government in great cities is an impossibility. He said, "Let us remain a rural people." "Then," he said, "we can maintain a government that will rest lightly on the shoulders of the people."

Hamilton, the greatest intellect of the revolutionary period, saw the danger as clearly as did Jefferson, but he sought to meet the danger in a different way. He said, "If these great cities will arise, it is impossible to have a weak, representative government to control them, and therefore," he said, "we had better make our government strong enough to begin with." He was in favor of a President for life; his policy was to have the President appoint the Governor of the different states. Now, we have adopted in the progress of time, a part of the Jeffersonian theory, and in part the Hamiltonian theory. We adopted Jefferson's so far as making the government a government that would rest lightly upon the shoulders of our people. We followed Hamilton in his theory in establishing the protective tariff, and as Jefferson predicted and as Hamilton predicted, the tariff brought these great cities. "The great cities," they feared, "would bring destruction to our free institutions unless we took on a stronger form of government." Now, gentlemen, why is it that this question broke on the people of the United States like a storm out of a clear sky? It is because the question with which we are confronted today did not arise until the great cities came. That is the reason. Now, having these congested communities, our people are seeking to deal with that great question and preserve the institutions that our fathers bequeathed to us. This is no novel proceeding now. For the past twenty-five or thirty years our sister states have been limiting the representation in these great cities. The people down State could have limited Chicago by the Constitution of 1848, but it was not necessary. The danger was not imminent, and we refrained from doing so. We could have limited Chicago again by the Constitution of 1870; the danger did not seem imminent, and we postponed it for a future time. New York has limited her great city; Pennsylvania limited her's; Rhode Island and Maryland and some ten or a dozen other states have done the same thing.

Now, I have, this to say, I have this warning to proclaim to my fellow-members, that when this great land of ours is dominated and controlled politically by the great cities of this country, the time will have come when some Gibbon can begin his first chapter on the decline and fall of the great American republic.

Now, I believe that the states of this Union having large cities, as fast as they get to the question of a Constitutional Convention they will do just exactly what we propose to do here. To the gentlemen down here from the second greatest city of the continent, and I do not believe it will be long before it is the greatest city in the American Union, if not in the world. Do you gentlemen wish, and I speak in all kindness, to dominate the rest of this great State, with all its interests and with all its diversified industries? You know in your heart of hearts, every one of you, that we have been lenient in our criticism of your great city.

I have no fault to find with the officials of the City of Chicago. The trouble is not with them, it is in the system. I have no quarrels with the officials of the city of New York, or Baltimore, or Philadelphia, the fault is in the system. Now, my friends, it costs something to gain the freedom of our people. The soldiers who won our liberty and established our free institutions could have been tracked from Bunker Hill to Yorktown in the blood of their lacerated bare feet. They did this not for themselves, but for you and me, and all of the men and women who have lived in this blessed land of ours from that time to the present, and for the generations that are yet to come, and in the great Civil War 300,000 American citizens laid down their lives in order to preserve these blessed institutions of ours, and when we, as free representatives of a free people, in self-defense, in order to secure and perpetuate these institutions, when we are seeking to place some limitation upon this rising, this threatening danger, our friends say to us that we are unfair. The question of personal preference, the question of taxes does not come into the equation. It is a question of self-existence. It is a question of preservation. Now, my friends, let us go forward fearlessly and confidently and adopt this proposition, and then we can turn our faces in hope and confidence toward the great future of this great land which our fathers have conquered and bequeathed to us as an inheritance forever.

Mr. RINAKER (Macoupin). I don't want to try to make a speech, especially not after the interesting address we just listened to, but it seems to me that we have probably talked enough and that we ought to define the issues that are before us very briefly, and begin voting and making our positions known. I want to say a word about this substitute proposition that is in here. I am very sorry that my judgment as a member of the committee as to what was fair and right is so unanimously condemned by the members particularly from Cook county, and also by quite a number of the down State gentlemen. I did not know, and I did not think that I was participating in as bad a piece of attempted legislation as that was. I thought I was doing the right thing, but I know as a member of this Convention it is my duty to yield to the clear expressed sentiments of the members of the Convention. I haven't any thought of taking my dolls and going home until we are all tired of sitting, and we get through with our job. So when this substitute came in, that seemed to be acceptable to the down State members as a compromise of the differences, not between Chicago and down State, because Chicago is not, so far as I know, responsible for that substitute, but as a compromise of our differences, I yielded my judgment, which I still personally hold, that the county basis of representation is the best and fairest basis, underlying basis for apportionment, and I united with the committee in acquiescing in the presentation of this substitute, and I stand for it now.

Mr. HULL (Cook). Then this substitute proposal is in no sense presented here as a compromise for Cook county, but a compromise for the members of the outside territory?

Mr. RINAKER (Macoupin). Yes, for the regrettable reason, by reason of circumstances the Chicago gentlemen cannot control, they have not yet been in a position to submit a proposal which would compromise between Chicago and down State, and I want to say here that I appreciate as a splendid act and a splendid thing the action on the part of the gentleman from Chicago, Mr. Hamill, in the proposition that he makes to come out

and stand against the prevailing sentiment, and one that is naturally open to be criticized, and stand for this substitute and for its adoption with the elimination of the three lines covered by the motion that is now before the House. I think it was a splendid and brave thing for him to do. Also for the other gentlemen who afterwards expressed the same sentiment. We recognize the fact it is a thing that is objectionable to many of the Chicago people; occupying their position, we down State people would probably feel as they do. I am not criticizing them for it, but I am certain that up to this time the proposal is only a compromise of our down State differences. I hope the time will come, if the situation will so develop, that the Chicago people may, and in my opinion they should have before this, made a proposal by way of compromise, but up to this time, except for two or three individual expressions, the position of Cook county has been that of unalterable opposition to any restriction or limitation.

That is the position clearly of them, and the position of the speakers, with one or two or three exceptions. I am not finding fault with that. I regret it, but the issue is before us now.

Mr. MILLER (Cook). Hasn't the position of the down State before today been unalterably for the limitation in both Houses?

Mr. RINAKER (Macoupin). No, because here is a waiver of the position of the majority of the down State people.

Mr. MILLER (Cook). I said up to today, this very afternoon.

Mr. RINAKER (Macoupin). I say yes, as to the majority of the down State people, as I say this is a proposal of compromise of the differences. There have been some among us who have disagreed, not many but some disagreed.

Mr. MILLER (Cook). But the action of the down State delegates as a whole, until this very afternoon, absolutely was opposed to anything except strict limitation in both Houses, isn't that so?

Mr. RINAKER (Macoupin). That is not correct in my opinion, because I myself said when this matter was up and presented, in reply to some arguments that had been made, that that proposal as coming from the committee was our judgment as to the best and most conscientious proposition to make and most effective and safest one, but that it was a proposition I was willing to consider amendments to, for one; I did not speak for the committee, but it was a matter that has never been an unalterable proposition. It was not made as an unalterable proposition, as compared with the unalterable proposition from Chicago that has not yet been altered, except in the case of two or three gentlemen who have spoken here this afternoon after the proposal came in.

Mr. DEYOUNG (Cook). This substitute report, then, is a result of the members or the work of the committee outside of Cook county?

Mr. RINAKER (Macoupin). Certainly it is.

Mr. DEYOUNG (Cook). Cook county has had no voice in the preparation of this substitute?

Mr. RINAKER (Macoupin). Great God! We could not get you to take any.

Mr. DEYOUNG (Cook). I think you would have been able to get us to talk. May I ask this question of the gentleman from Macoupin? Would you, as a member of this Convention, stand for reasonable limitation of Cook county, not Chicago alone, but Cook county, in one of the two branches of the General Assembly?

Mr. RINAKER (Macoupin). I did not get the question.

Mr. DEYOUNG (Cook). Would you, as a member of this Convention, stand for a reasonable limitation of Cook county, not Chicago alone, but Cook county, in one of the two branches of the General Assembly?

Mr. RINAKER (Macoupin). I would very reluctantly do so. I don't say I would not.

Mr. DEYOUNG (Cook). May I ask this of the gentleman from Macoupin: Why the representation of Cook county in the Senate was reduced in the substitute report from the first report, the original majority report?

Mr. RINAKER (Macoupin). I cannot state any reason why that was

done. It came in that way in the proposal as you have it when it was presented by the delegate, Mr. Kerrick, and as it was satisfactory to the majority, without inquiry; it may have come from Chicago indirectly, I don't know, without inquiry, it was accepted.

Mr. DEYOUNG (Cook). You would not say without inquiry why that limitation, a more severe limitation had increased or emanated from either Cook county or Chicago?

Mr. RINAKER (Macoupin). I don't know; strange things come from Chicago.

Mr. DEYOUNG (Cook). Well, let us not conjecture without basis.

Mr. RINAKER (Cook). No basis, except that strange things happen.

Mr. DEYOUNG (Cook). Let me ask you why you make any distinction, if you are speaking about the fear of the congested population, why you include the rural districts of Cook county, which are largely agricultural, and with nearly 700 miles area, and practically 30 townships, in the same limitation?

Mr. RINAKER (Macoupin). I suppose it is a matter of perspective.

Mr. DEYOUNG (Cook). What is that?

Mr. RINAKER (Macoupin). I suppose it is a matter of perspective, the magnificence and the population and the wealth and extent of Chicago dwarfs your 600 square miles outside of Chicago in the County of Cook, so that we hardly realize you have farms in Cook county. We are perhaps as ignorant on that subject as some Cook county men are on what we think the necessities are down State.

Mr. DEYOUNG (Cook). If you found it to be a fact that the agricultural production of Cook county exceeds that of any other county in the State, you would still think Cook county ought to be limited?

Mr. RINAKER (Macoupin). Yes, I think in this proposition the tail has to go with the hide. It is the same thing in Cook county.

Mr. DEYOUNG (Cook). In other words, the rural districts in Cook county, which have no legal relation with it and are not dominated by it, are to be put in the same category?

Mr. RINAKER (Macoupin). Yes, for this reason, you strike the whole keynote of the situation there, it is because you are a part of the community, you are a part of Cook county, you are an entity of Cook county, and that is the basis for consideration, but you do not consider it that way. We cannot get you to consider it that way.

Mr. DEYOUNG (Cook). That explains one thing, it is not the congested population of my place that induced you, among others, to impose this limitation, but the territory of Cook county, whether rural or urban, no matter how sparsely settled or what it may be devoted to, however sparsely settled it is.

Mr. RINAKER (Macoupin). Do you have no population; if not, you are not affected by it.

Mr. DEYOUNG (Cook). But you decline to have sparsely settled portions outside of Cook county limited, except as is Chicago. Why aren't the farmers of Cook county entitled to some representation?

Mr. RINAKER (Macoupin). We aim to give it to you, but perspective in the location dwarfs the value of agriculture in Cook county.

Mr. DEYOUNG (Cook). Then I understand that a farmer in Cook county, in a sparsely settled district, limitation there is proper, but in any other part of the State it is not proper?

Mr. RINAKER (Macoupin). There have been a number of answers to that question, but I do not see any necessity of going in it. I do not see any difference between that and the gentleman from Jasper in protesting against the prevailing idea here that counties are not to be recognized.

That, however, is settled. I don't care to go over threshed straw. It is decided by this proposal, and the acquiescence of the loyal men in this Convention who have waived their judgment on the question of representation as a unit, that is settled. We have waived that. I say that I am not one of them, my county is big enough not to be slighted, but I do respect the patriotism of the men and the noble spirit of the small counties of this

State who are standing in the interest of harmony, with the hope it will be accepted by the representatives of Cook county when they can get together and when they can cool off, after these trying days of debate, that they can accept it as a reasonable and fair compromise from their standpoint, as we down State have compromised, and settled our differences.

We have other big cities besides Chicago; we have them down State. We are not very big, but we have gotten together with them, the agricultural interests in the small communities and the big counties and the big cities down State, and this substitute as it comes in here backed by all interests in the interest of harmony is offered in order that this Convention may proceed to the big, important questions before us, that are not merely selfish questions such as this matter is, in my opinion.

Mr. HULL (Cook). I am glad to have you acknowledge it.

Mr. RINAKER (Macoupin). Absolutely selfish, you won't give up anything, except two or three individuals. I say selfish. It is a purely personal matter, it seems to me, in view of the light thrown on it by the gentlemen who have investigated it more than I have. We are in hopes the proposal will be accepted. The particular motion that is before us, may not be pressed to a vote at this time, particularly as we are—

Mr. MILLER (Cook). Is it your position for Chicago to insist, or Cook county to insist, that though she has a greater population than the rest of the State, she shall not be limited in both Houses, you regard as a selfish position, is that it, and a small, minor position?

Mr. RINAKER (Macoupin). I do not think it is as big and broad a position as the great big city of Chicago, reigning over the lake and State as it does, ought to occupy.

Mr. MILLER (Cook). You do not think it is as big and broad as the position of you gentlemen down State who say that "we, having a lesser population, we should rule over Chicago with a greater population."

Mr. RINAKER (Macoupin). No, I didn't think any such thing. I think Chicago is a better, bigger and greater and will be in many respects much greater city than the City of New York, but I think Chicago should do as did New York, and in the election and in the Convention I think the majority should be in favor of the limitation upon your representation. I was going to say this, but I hoped that this pending question to strike out the three lines that are objectionable to the gentlemen from Cook county may not be pressed at this time. We have been discussing this until we are tired. I think this ought to be settled tonight and that we should vote on the substitute as it is. There is plenty of time yet for us to think over the matter, and for us to figure out what the effect will be upon the State in general, upon the change in its representation from population to electoral vote. I think it is something that we ought to think over. I think we know enough about it now and have discussed it long enough. The more we discuss it the more we will excite our feelings and obscure our judgment, if this could be done. It seems to me there is plenty of time before it comes up on second reading, if a mistake is made in the inclusion of these three lines they can be removed, if it is found they do not amount to anything they can be disposed of later. I hope that may be done.

Mr. BARR (Will). I am going to speak just a minute. I do believe the majority of the sub-committee that has worked on this matter for several months, possibly ought again to make some statement to the Convention again as to the purposes that we had in mind and how we tried to carry them out, without going into it at any length. Now, as to the committee, I myself, I presume, was as much responsible for the concessions in the committee as any other member. I have always felt that the thing we wanted to do first was to get a good Constitution adopted by the Convention, and a Constitution that would be approved by the people, and when the matter as to the limitation of Cook County came up for consideration in the Legislative Committee I endeavored from the beginning, as some of the other members of the committee did, over the objection and possibly somewhat against the views of other members of the committee, to try to make a report that would be fair and equitable, not as a down State

proposition or as a Cook county proposition, but as a proposition for the constitution of the legislature of the State of Illinois. We believed and I believed when we arrived at the report that we made yesterday we had done so, but that apparently was not the opinion, although it did not come to a vote, apparently of a majority of the delegates to the Convention. Then last night we spent hours trying to arrive at a solution, not solely with the idea of satisfying the different down State interests, but with the idea of endeavoring to get a product that, in addition to satisfying the down State men, would be such as we thought the representatives from Cook County could accept and present to their people. We spent a long time on it, and I, together with other members of this committee, went to bed this morning at three o'clock. This report was made not with the idea of pacifying the different interests down State altogether, but with the idea of trying to bring out a composite product of the best judgment of the different points of view of the men from down State which we thought would be such as could be accepted by the delegates from Cook county. And never during the consideration of this matter from its beginning has the kind of population or the class of people of Cook County or of Chicago been considered any different from any other class of people in the State of Illinois. I live under the very shades of Chicago, my county bounds Cook county on the south and west, and I have more business relations with people in Cook county than with people in any other county in the State outside of my own, ten to one, and I do not believe there is any prejudice in my mind against the people of Chicago or Cook County, but I want to say, gentlemen, and I say it with the utmost truth, that I am impressed with this fact, that whether it is the County of Cook and the great City of Chicago, whether it is made up of farmers or manufacturers or bankers or laborers—you may argue against it all you please and you may quote the statements of the most famous government writers from the beginning of the world, and you cannot convince the delegates of the State of Illinois who live in its several counties of anything but the truth of this fact—if there is a community and a unit and an interest in a county that ends at the county line, whether it is agricultural, whether it is manufacturing, no matter what the people's business is, whether it is sparsely settled or otherwise, after all there is a community of interests. When you cross the line from Will County into Kane or from Will into Kankakee, there is a different community. Not that the people are not alike, not that the people do not follow the same business, but their associations in so many ways connect them with the home county, and that makes their interest a single interest, as different from the population of any other county in the State.

Why, gentlemen from Cook county, speaking about the limitation of representation of the down State against Chicago, is there any unity of interest between Will county and the county in which Cairo is located? Is there anything which binds me to Peoria or East St. Louis or Danville or the other scattered cities or counties of this State? Is there a single thing that tends to connect the down State together, that makes it necessary for Chicago or Cook county to protect herself against the down State? Is there a unity of interests on the other side of the line as to Cook county different from the rest of the State?

So I say, gentlemen, we wanted to have a Constitution that could be adopted. The proposition that was presented is not our proposition, but we accepted it. As has been suggested by Delegate Rinaker, we accepted it because it seemed to be acceptable, or at least accepted by the down State men. I want to say to you gentlemen that it was accepted as a sacrifice by many of the down State men. We accepted it for the purpose of satisfying the down State men? Not at all. We accepted this proposition because we felt that it was a proposition that the delegates from Cook county could accept, and delegate after delegate said that "It is not satisfactory to me; it is not satisfactory to my county or my people, but if it seems the best thing to have this proposal accepted in order that we may compromise on this matter, and not break up this Convention, we are willing to make the concession." And, gentlemen, this proposal was accepted by this committee in place of or as a

substitute for the report that this committee made, because we felt that it was a proposal that could be accepted by the people of Cook county and was fair and reasonable; and so, gentlemen, it seems to me, and I believe I speak for the down State delegates when I say this, that the down State people feel that they have gone a long way. They do feel that they have made a great concession; they do feel that their proposal is a compromise and should be accepted by the delegates from Cook county and from the whole State, and I trust that if this motion is pressed, it will be voted down.

Mr. MILLER (Cook). Wasn't the concessions embodied in the substitute, made to the large counties?

Mr. BARR (Will). We think not. The large counties in my opinion, outside of Cook county, will receive no more representatives in this report than in the original report.

Mr. MILLER (Cook). Did they get proportionate representation in the original report?

Mr. BARR (Will). To what?

Mr. MILLER (Cook). Population.

Mr. BARR (Will). In a limited sense, yes.

Mr. MILLER (Cook). A county which had only 7,000 got a member?

Mr. BARR (Will). Yes.

Mr. MILLER (Cook). And a county with 49,000 got one.

Mr. BARR (Will). Yes.

Mr. MILLER (Cook). Each ten years the common divisor was doubled.

Mr. BARR (Will). Yes.

Mr. MILLER (Cook). It didn't get its proportion then?

Mr. GORMAN (Cook). For two days we have been discussing the proposition of limiting the representation in the General Assembly of Cook county, and after the able and convincing arguments of my colleagues from Cook, we have been characterized by the former Governor of this State as quitters. I feel that that is an unjust accusation. These able men, with a profundity of thought and directness and clearness of vocal effort have attempted to beat down a wall of prejudice and fear that has been raised by the down State delegates against the preponderance in population of Chicago and Cook county; because they have fallen before that wall of fear and prejudice, I do not feel that they ought to be designated as quitters. I think they have displayed a stoutness of heart and courage that even was not outshone by the handful of Greeks who held the pass of Thermopylae.

A few minutes ago the gentleman from Macoupin said that there were very few of the delegates from Cook county who suggested that they were willing to abide by a compromise which would limit the representation of Cook county in one House of the General Assembly, but what has been the conduct of the gentlemen outside of Cook county who have approached this question in debate this afternoon? Every one of them has asked for a fight to a finish, not one of them has suggested that he would accept an amendment, which I presented to the substitute report more than five hours ago, but rather with the spirit of "Lay on, Macduff, and damned be he who first calls, 'Hold, enough,'" they have thrown down the gauge of battle and the gentleman from Macoupin asks that the decks be cleared, in order that they may prove their strength and might in this long drawn out struggle. I will gladly acquiesce in his suggestion, and as the introducer of the amendment to the substitute report, I now withdraw it.

(Amendment withdrawn.)

Mr. CARLSTROM (Mercer). It is now seven o'clock, and it seems to me the debate has proceeded at great length, and I move that we adopt the substitute report.

CHAIRMAN SHANAHAN. The motion is on the adoption of the substitute amendment.

Mr. DEYOUNG (Cook). Practically half the Cook county delegation has gone home. I do not think the matter is as important as this, that we

ought to vote on it with so many members of the Cook county representation absent.

(Adopted.)

Mr. GALE (Knox). I wish to call the Convention's attention to the fact that the majority report included sections 6, 7 and 8, and the substitute offered by Mr. Garrett was on sections 6 and 7. Sections 6 and 7 being adopted in lieu of the sections 6 and 7 of the majority report, section 8 no longer applies, because it reads as follows: "In case the General Assembly fails to make an apportionment;" therefore, Mr. Chairman, I move to amend section 8 of the majority report of the Committee of the Legislative Department by striking out the words "taking of decennial census," and substituting therefore "the time in this Constitution for making any such apportionment."

CHAIRMAN SHANAHAN. The question is on the adoption of the amendment.

(Amendment adopted.)

CHAIRMAN SHANAHAN. The question is on the motion of the adoption of the majority report, as amended by the gentleman from Winnebago, and the amendment offered by the gentleman from Knox.

(Report adopted.)

Mr. LINDLY (Bond). I move that the Committee of the Whole do now rise and report progress.

(President Woodward, presiding.)

Mr. SHANAHAN (Cook). I desire to report that the Committee of the Whole has considered the report of the Legislative Department on sections 6, 7 and 8 of Proposal Number 366, with amendments thereto, and desires to report that the same has been adopted and recommended to the Convention.

Mr. HAMILL (Cook). I desire a roll call on the motion for the adoption of the report of the Committee of the Whole.

(Roll call.)

(Adopted.)

Mr. MICHAL (Cook). As one of the few sad children of this Convention belonging to the minority party, I ask the indulgence of this Convention to adjourn for a period of fifteen days, so that four of us who are delegates to the Convention at San Francisco may have an opportunity there to attend to our duties and put up a live candidate against the standard bearer of this majority party, and I move we adjourn for fifteen days.

THE PRESIDENT. The question is on the motion for an adjournment for fifteen days.

(Motion lost.)

Mr. DUNLAP (Champaign). Mr. President, the Committee of the Whole having under consideration Proposal No. 361 relating to land credits, reports the same back with the recommendation that the same be adopted by the Convention as amended.

(Report adopted.)

THE PRESIDENT. The Committee on Rules and Procedure submits the following report:

(Adopted.)

Mr. MICHAL (Cook). I don't know why it is the sense of the majority members of this Convention to discriminate against the delegates here, and I take it that there is a distinct discrimination. When the Republicans had their convention at Chicago the Convention here adjourned for a week. The four delegates to the Democratic convention who are members of this Convention want to be here and want to participate in the affairs and we have to go to San Francisco. There is no reason that I can see in a spirit of fairness why the same courtesy could not be extended to our fellows as the majority members represented here.

Mr. BRENHOLT (Madison). The Supreme Court says they are not delegates.

Mr. MICHAL (Cook). Regardless of what the Supreme Court says, if that is the spirit of unfairness that is going to be displayed here in this trifling manner, I shall be against, with a number of other delegates, against each and every solitary proposal. There will be nothing to determine; if you are going to fight me with that sort of unfairness, then we will fight back with the same kind of tactics.

Mr. BARR (Will). I move the delegates who are going to attend the Democratic National Convention be excused from attendance at this Convention for the necessary time to enable them to return therefrom.

(Adopted.)

Mr. DOVE (Shelby). I just want to voice my appreciation, gentlemen, for the consideration that you have shown me as a delegate to the Democratic National Convention at San Francisco in granting me a leave of absence for the necessary time during which I will be absent from the sessions of the Convention. I also want to express my thanks to the Rules Committee for having placed at the foot of the calendar the report of the Initiative and Referendum Committee.

Mr. HAMILL (Cook). I move that the Convention do now adjourn until 10:00 o'clock a. m., Tuesday, June 22, 1920.

Motion prevailed and the Convention adjourned until Tuesday, June 22, 1920, at 10:00 o'clock a. m.

TUESDAY, JUNE 22, 1920.**10:00 o'Clock A. M.**

Convention convened pursuant to adjournment.

The President in the chair.

Prayer by the Rev. C. B. Grubb, pastor of First Christian Church, Watsika, Illinois.

THE PRESIDENT. The Journal for Wednesday, June 16, 1920, has been placed on the delegates' desks at the last session of the convention, and is now subject to correction. There being no corrections proposed, the Journal of Wednesday, June 16th, will stand approved and it is so ordered.

Mr. SHANAHAN (Cook). The Legislative Committee and the Legislative Department to which was referred Proposal 366, amendment No. 3, known as section 23½, reports the same back, with a substitute therefor, and recommends that the original amendment before enumerated be rejected and that the substituted amendment be placed on the general order.

With reference to amendment four to section 27, trading stamps or trade premiums, the committee reports the same back with the recommendation that it be not adopted.

THE PRESIDENT. The respective reports of the committee will be printed and placed upon the table, under the rule.

Mr. MICHAELSON (Cook). I want to question whether there is a quorum present this morning.

THE PRESIDENT. Do you desire a call of the house?

Mr. MICHAELSON (Cook). Call of the house, yes.

THE PRESIDENT. Will the secretary please call the house?

(The secretary called the roll.)

THE CHAIRMAN. The roll call is closed, and a quorum is announced present.

Mr. MILLS (Macon). Admiral Moore, my colleague, telephoned to me last night that his wife was ill and he may not be able to be present here this morning, but that he would be here as soon as he was able to come.

THE PRESIDENT. There being no objection, the member will be excused on the record.

Mr. DUNLAP (Champaign). The Committee on Agriculture, to which was referred article thirteen of the present Constitution, reports the same back with an amendment, and recommends that the same be placed on the general order.

THE PRESIDENT. Under the rules, the report of the Committee on Agriculture will be printed and laid on the table. Any further reports of standing committees?

The Committee on Rules and Procedure submits the following report, and requests that it be read.

COMMITTEE REPORT.

Your Committee on Rules and Procedure recommends that Proposal No. 372, reported by the Committee on Agriculture, be taken from the table and placed on the General Orders for consideration in Committee of the Whole.

(Report adopted.)

THE PRESIDENT. The Committee on Rules and Procedure submits a further report, and asks that it be read.

COMMITTEE REPORT.

Your Committee on Rules and Procedure recommends that the reports of the Committee on Distinction Between Constitutional and Legislative Subjects and Proposals numbered 81 and 213 be taken from the table and placed on the General Orders for consideration in Committee of the Whole.

(Report adopted.)

Mr. BRENHOLT. I offer the following resolution and desire to have it read.

THE CHAIRMAN. The resolution requires no action by the Convention.

Mr. CRUDEN (Cook). I offer a petition and ask to have it presented to the Committee on Bill of Rights.

THE PRESIDENT. It is so ordered.

Mr. McGUIRE (Randolph). I offer a petition and ask to have it referred to the Committee on Bill of Rights.

THE PRESIDENT. So ordered.

Mr. GEE (Lawrence). I offer a petition and ask to have it referred to the Committee on Bill of Rights.

THE PRESIDENT. So ordered.

Mr. SNEED (Williamson). I offer a petition and ask to have it referred to the Committee on Bill of Rights.

THE PRESIDENT. So ordered.

Mr. WILSON (Cook). I have a petition and ask that it be read.

(The petition was read.)

THE PRESIDENT. The petition requires no action by the assembly.

Mr. DAWES (Cook). I have a petition from the City of Evanston regarding the reading of the Bible in the schools, and ask to have it referred to the Committee on Bill of Rights.

THE PRESIDENT. So ordered.

The Convention will now resolve itself into the Committee of the Whole for the consideration of such matters as are before the committee. Delegate Shanahan is designated as chairman for the Committee of the Whole.

(Chairman Shanahan presiding.)

CHAIRMAN SHANAHAN. The Committee of the Whole will come to order. The clerk will read the minutes of the last meeting.

Mr. LINDLY (Bond). I move that the further reading of the minutes be dispensed with and that they be approved.

(Motion prevailed.)

CHAIRMAN SHANAHAN. The clerk will read the report submitted by the chairman of the committee on June 1st on Proposal 211.

CHAIRMAN SHANAHAN. What is the pleasure of the committee?

Mr. MICHAELSON (Cook). I move that it be adopted.

Mr. HULL (Cook). Wasn't that report made once before and acted on?

CHAIRMAN SHANAHAN. It was not acted upon. It was acted upon in the Committee on Legislative Department.

Mr. HULL (Cook). It never was before this committee? It never was before the Committee of the Whole?

CHAIRMAN SHANAHAN. It was before the Committee of the Whole and referred and re-referred to the Committee on Legislation.

Mr. HULL (Cook). I move that the proposal be read so that we may all know something about it.

(The proposal was read.)

(Report adopted.)

CHAIRMAN SHANAHAN. The Committee of the Whole will now take up Proposal 366, beginning with section 27, for further consideration. Two amendments to section 27, which have been considered by the committee and referred back to it, are now submitted for consideration. Amendment number four is the first amendment.

Mr. HAMILL (Cook). I move that the report of the committee be concurred in.

(Motion prevailed.)

CHAIRMAN SHANAHAN. Next is amendment number three.

Mr. HAMILL (Cook). I move that the report be adopted.

Mr. HULL (Cook). I have had only a moment to look over these reports, and several matters have occurred to me in which the section can perhaps be shortened and bettered. But in expectation that it will come to my committee for that purpose, I do not discuss these proposals and I am in favor of the general plan.

(Motion prevailed.)

CHAIRMAN SHANAHAN. The amendment to section 27 offered on the floor and reported back by the committee with the recommendation that it be not adopted, and concurred in by the committee, leaves section 27 as it is.

Mr. PADDOCK (Sangamon). I move that section 27 be adopted as reported.

(Motion prevailed.)

CHAIRMAN SHANAHAN. There only remains section 30 of the legislative article which was reported back to the committee, and the committee will act upon that this afternoon.

Does the committee desire at this time to do anything further with section 33 on pensions?

Mr. GILBERT (Jefferson). Section 30, as reported by the committee, contains some provisions that were not in the old section.

CHAIRMAN SHANAHAN. Section 30 is still in the Legislative Department and has not been reported back.

Mr. SCANLAN (LaSalle). I move that the committee rise and report progress.

Mr. DAWES (Cook). In the matter of pensions I understand that a delegate not present this morning has expressed the intention of making a motion to reconsider, having in mind to present to the Convention a slightly modified proposal. Having supported that proposal myself, I cannot make a motion to reconsider, but I should like to move that this matter be again referred to the Committee on Legislation.

CHAIRMAN SHANAHAN. That cannot be done. The motion will not be in order.

Mr. CRUDEN (Cook). I make the motion that the question of pensions be considered.

CHAIRMAN SHANAHAN. How did you vote?

Mr. CRUDEN (Cook). I voted for it.

Mr. LINDLY (Bond). I move that it be reconsidered.

CHAIRMAN SHANAHAN. The gentleman from Bond, who voted with the majority at the previous session, moves to reconsider the action by which section 33 was stricken out.

(Motion prevailed.)

CHAIRMAN SHANAHAN. Section 33 is before the house. What is your pleasure?

Mr. CARLSTROM (Mercer). I have a copy here of the proposed substitute for section 33, which was prepared and handed to me by Judge Mack, delegate from Carthage, Hancock county, and I would like to present it in his name.

Mr. HULL (Cook). I would like to see the amendment printed and I would like to study it before voting on it myself. I am not ready to adopt it, and still it may be entirely satisfactory to me.

Mr. TRAEGER (Cook). Can we not have a sufficient number of copies typewritten and make this a matter of discussion tomorrow?

Mr. HAMILL (Cook). I move that further discussion of this matter be postponed.

Mr. TRAEGER (Cook). Till tomorrow morning?

Mr. HAMILL (Cook). I do not know that we can fix the time.

Mr. MICHAELSON (Cook). May I ask what this is an amendment to?

CHAIRMAN SHANAHAN. Section 33. It is an amendment to present section 33 on pensions.

Mr. MICHAELSON (Cook). There is not a present section 33. Section 33 was voted down, and unless something was presented in lieu of it, it seems to me no amendment can be offered.

CHAIRMAN SHANAHAN. On motion of the gentleman from Bond, the action of the committee was reconsidered.

Mr. MICHAELSON (Cook). The action of the committee was eliminated from the report?

CHAIRMAN SHANAHAN. Yes, sir. That action was reconsidered, so that section 33 is now before this committee.

Mr. MICHAELSON (Cook). As originally placed before the committee?

CHAIRMAN SHANAHAN. Yes, and the gentleman from Hancock moves a substitute.

Mr. MICHAELSON (Cook). A substitute for the section?

CHAIRMAN SHANAHAN. A substitute for section 33, which is now before the committee. The gentleman from LaSalle, Mr. Scanlan, moves that the committee rise and report progress.

(Motion prevailed.)

(President Woodward now presiding.)

Mr. SHANAHAN (Cook). The Committee of the Whole has considered amendment 33 and reports progress and begs leave to sit again.

(Report adopted.)

THE PRESIDENT. Next for consideration is the report of the Committee on Distinction Between Legislative and Executive and Constitutional Matters.

Mr. MOORE (Macon). I was absent when the roll call took place this morning, having been detained on account of illness. I ask that I now be shown as present.

THE PRESIDENT. There being no objection, it is so ordered.

The Convention will now resolve itself into the Committee of the Whole for the purpose of considering matters of general order. Delegate Dietz is designated as chairman of the Committee of the Whole.

(Cyrus H. Dietz, Rock Island county, now presiding as chairman.)

CHAIRMAN DIETZ. The clerk will read the report of the Committee With Relation to Proposal 81.

(The report was read.)

CHAIRMAN DIETZ. Gentlemen, the committee would like to make this explanation in calling your attention to the language in this proposal. The exact language of the proposal may have escaped your attention. I call particular attention to that part which provides that the General Assembly shall provide by law for a system of registering, transferring, insuring and guaranteeing land titles by the State. The committee was of the opinion that under the present constitution the State had no such power. You have heard the report.

Mr. CORLETT (Will). I move you that the report as submitted be concurred in by the Committee of the Whole. And in this connection, I might add to what the chairman has already said, that the proposal provides that no matters arising in and under the operation of such special judicial powers may be conferred by the General Assembly upon county boards, and because of that and the other matters mentioned by the chairman, the committee was of the opinion that this is something which the General Assembly, under the present Constitution, and, I hope, under the Constitution that we are now writing, is entirely without power to grant. Therefore, we regard the matter as a constitutional question.

(Report adopted.)

CHAIRMAN DIETZ. Your committee further reports on Proposal 213.

Mr. HAMILL (Cook). I move that the report of the committee be concurred in.

Mr. HULL (Cook). What is the number of the proposal?

CHAIRMAN DIETZ. 213.

Mr. HULL (Cook). I move that the proposal be read.

(Proposal read.)

(Motion prevailed.)

(Report adopted.)

Mr. HAMILL (Cook). I move that the committee now rise and report its action.

(Motion prevailed.)

President Woodward resumed the chair.

Mr. DIETZ (Rock Island). The Committee on Distinction reports that upon consideration of the Committee of the Whole on Proposals Nos. 81 and 213, that the recommendations of the committee be concurred in.

(Report adopted.)

THE PRESIDENT. The chair will refer, in accordance with the report of the Committee of the Whole, Proposal 81 to the Committee on Judicial Procedure.

Mr. GREEN (Champaign). While I was absent for just a few minutes, I understand there was a roll call on the floor, and I was marked absent. I would like to be shown as present on the roll call. I was here just before and immediately afterwards.

THE PRESIDENT. Without objection, the record will so show it. The Convention this morning adopted a report of the Committee on Rules procedure, placing a report of the Committee on Agriculture relative to warehouses upon the calendar for consideration by the Committee of the Whole. The Convention, therefore, will resolve itself again into the Committee of the Whole for the purpose of considering such report. The chair designates Delegate Dunlap to act as chairman of the Committee of the Whole.

(Henry M. Dunlap, Champaign, assumed the chair.)

The Committee of the Whole thereupon took up for consideration Proposal 372.

CHAIRMAN DUNLAP. The Committee of the Whole will be in order. The Committee on Agriculture, to whom was referred this warehouse article, have considered it, and we have reported to you a few changes in the Article, which I will endeavor to explain and call your attention to. It has been printed and will be on the desks of the members in a few moments.

The Committee were of the opinion that if they had this article to write in the first place they would have eliminated a great deal that is now in the Article. Inasmuch, however, as this has stood in the Constitution for fifty years, they thought the proper thing for the committee to do was to eliminate those features of the article that were obsolete or unnecessary. Section 1 of the Article reads:

"All elevators or storehouses where grain or other property is stored for a compensation, whether the property stored be kept separate or not, are declared to be public warehouses."

Surely in many of the cities throughout the State there are large and small warehouses where certain things are stored for compensation, and yet they should not be regarded technically as warehouses under this term, although this storage is done for a compensation, and the committee have added the words "for the public"—"where grain or other property is stored for the public for compensation," so as to eliminate those warehouses where private contracts are made for the storage of certain commodities.

The original wording of Section 2 is as follows:

"The owner, lessee or manager of each and every public warehouse situated in any town or city of not less than 100,000 inhabitants * * *"

The wording of this section, as amended by the committee, is as follows:

"The owner, lessee or manager of each and every public warehouse *in which grain is stored*, situated in any town or city of not less than 100,000 inhabitants * * *"

The section goes on with the requirement that the amount and grade of each and every kind of grain shall be set forth in a public statement. The requirement that notices shall be posted seemed to be unnecessary, or rather, out of line; that is, as to stored property other than grain. As a matter of fact, that is not done. The section requires that no other warehouses except grain warehouses shall make or post such notices, and, therefore, the committee qualified the section to read, "public warehouses in which grain is stored," as the section really is intended to cover that matter.

They have eliminated after the word "warehouses" farther on in the section the words, "together with such other property as may be stored therein," so as to make this section apply to the grain warehouses.

Section 3 is unchanged.

Section 4 is unchanged.

Section 5 reads:

"All railroad companies receiving and transporting grain in bulk or otherwise, shall deliver the same to any consignee thereof, or any elevator or public warehouse to which it may be consigned, provided that such consignee or the elevator or public warehouse can be reached by any track owned, leased or used, or which can be used by such railroad companies
* * *"

They struck out in this copy of the Constitution, in lines 4 and 5, the words "such consignee or" and it reads:

"All railroad companies receiving and transporting grain in bulk, or otherwise, shall deliver the same to any consignee thereof, or any elevator or public warehouse to which it may be consigned, provided that such elevator or public warehouse can be reached by any track owned, leased or used, or which can be used, by such railroad companies * * *"

The idea being that if the consignee naturally could not be reached on the track of the railroad, it would not be desirable to have that in the Constitution.

Mr. HAMILL (Cook). Why do you leave it "deliver to the consignee?"

CHAIRMAN DUNLAP. We do not.

Mr. HAMILL (Cook). You require the delivery to the consignee.

CHAIRMAN DUNLAP. Of course it has to be delivered to the consignee provided such consignee or the elevator or public warehouse can be reached by the track owned, leased or used or which can be used by such railroad companies. I did not read far enough. I beg your pardon.

"And all railroad companies shall permit connections to be made with their track, so that any such consignee, and any public warehouse, coal bank or coal yard, may be reached by the cars on said railroad."

Mr. HAMILL (Cook). Why do you put in about coal banks when you are only talking about grain?

CHAIRMAN DUNLAP. We left that in; we didn't put it in.

Mr. HAMILL (Cook). Why do you leave it in when you are only talking about grain?

CHAIRMAN DUNLAP. Well, I take it that that is a proposition that has reference to consignees. That section has not any particular reference to warehouses, but it does have to the transportation of grain.

Mr. HAMILL (Cook). Well, you only require it of railroads carrying grain. Why should railroads carrying grain be required to make switches into coal yards and other railroads not?

CHAIRMAN DUNLAP. Well, I can only say in reply to that that it has reference to the present Constitution, and was not considered by the committee in that connection.

Mr. HAMILL (Cook). But the present Constitution requires warehousing for property other than grain.

CHAIRMAN DUNLAP. Yes, and this does, too—in a sense.

Mr. TRAEGER (Cook). Why not make it plain, if it does? Section 2 has reference to grain particularly, but Section 1 covers all warehouses, and, therefore, Section 5 would cover all warehouses.

Mr. WOODWARD (Cook). That last part of Section 5, "all railroad companies shall permit connections to be made with their tracks"—wasn't the idea of limiting that to coal yards?

CHAIRMAN DUNLAP. I don't see any reason why they should not, myself.

Mr. WOODWARD (Cook). I take it that that part of the section, if it is to remain, should be amended so as to include other commodities.

Mr. HAMILL (Cook). The railroads have to do it anyway. This does not impose any duty on them.

Mr. WOODWARD (Cook). I don't know why there should be a difference in this section.

Mr. DEYOUNG (Cook). As I understand it, Senator, the only change you make is that you strike out the words "any consignee," in the ninth line. That is all you change?

CHAIRMAN DUNLAP. Yes. The change that the committee made in that section is to strike out the words "any such consignee and" in line 9 of the printed Constitution.

Mr. JARMAN (Schuyler). In order that the house may vote intelligently on this matter, I suggest that it be so stated that we can all hear.

THE CHAIRMAN. The question was asked why the words were left in to require the roads to make connections with warehouses, coal banks and coal yards, and the reply is that Section 1 refers to elevators and storehouses where grain or other property is stored for the public for compensation, whether the property is stored separately or not, and the question on Section 5 is the matter of transportation of such grain and the delivery of it to consignee and the elevator or public warehouse to which they may be consigned, provided that such consignee or elevator or public warehouse can be reached by any track owned, leased or used or which can be used by said railroad companies, and all railroad companies shall permit connections to be made with their tracks. It permits all public warehouses to connect up with the railroad tracks so that they can receive deliveries from the railroad company.

Mr. TRAUTMANN (St. Clair). If you eliminate those words on lines 8 and 9 of page 112, provided for a connection to be made with any consignee, would that not necessarily include a mill? The connection may be made with a mill to which grain is delivered. You only leave the connection to be made with a public warehouse, coal bank or coal yard. A man buying the grain might be operating a mill and he might want a railroad connection, and it may be more important for him to have it than the coal bank or the coal yard. I do not quite understand the necessary feature of eliminating those words.

CHAIRMAN DUNLAP. It was represented to the committee that this would perhaps provide an added burden to the railroad companies by requiring the railroads to permit connections with any private consignee who might receive a small amount of merchandise, or whatever it might be that come under this supervision. It was thought by the committee, whether correctly or not, that it should be of sufficient importance to require the railroads to permit such connections, as it is well known that connections of this kind are not altogether desirable unless business interests require it. I will go on with this. Section six is unchanged. Section seven remains as it is, except one word: "The General Assembly may pass laws for the inspection of grain," etc. The committee substituted the word "may" in the first line for the word "shall" as it is in the present section.

Mr. HAMILL (Cook). Is there any reason why this rule should not be applied to potatoes as well as to grain? Why has the committee stricken out the language of this section and leave it so that it applies only to grain? Warehouses store all kinds of food products and they store them for a long time. If it is necessary to regulate warehouses storing grain, it would seem to me necessary to require warehouses storing potatoes or eggs or apples to submit to this regulation. Is there any reason why they should not?

CHAIRMAN DUNLAP. I would suggest that the delegate read section seven. That provides for receivers of all produce.

Mr. HAMILL (Cook). Yes, you make section seven applicable but you do not make the rest of the article applicable. That refers only to inspection. Gentlemen of the committee, I am in sympathy with the committee in striking out other property. I am not in sympathy with the committee in failing to strike out the whole article. It is a bit of legislation that has no place in the Constitution. Our own Supreme Court has said so, in the case of Munn against the People, 69 Illinois, page 80. The court said:

"We have not remarked upon Article 13, under which this law is supposed to have operated, for the reason that we held the law as futile for all purposes contemplated by it as valid with and without this article. The article itself seems out of place in an organic law, but the Convention, however incongruous it may appear, had the right to put it there."

We can go ahead and make ourselves just as incongruous as the Convention of 1870, if we choose. We have a right to place that in there upon that principle. Every sovereign has unrestricted legislative power where the organic law imposes no restraint, the power to legislate on all subjects must be acknowledged.

At this point Delegate Whitman (Boone) was designated as chairman. (Delegate Whitman assumes the chair.)

Mr. HAMILL (Cook). Gentlemen, if we retain this Article, we thereby say to the Supreme Court that it does not know what it is talking about, or we make ourselves ridiculous. There is another good reason for not putting this in, gentlemen. The rule that the expression of one thing excludes another thing has been held by our Supreme Court to apply to the Constitution with just the same degree with which it applies to statutes. It has been so held in a lot of cases. If we put in our Constitution certain regulations against warehouses, we are taking a mighty long chance so as to forbid the legislature from making other regulations as time may show they are necessary.

I urge you strongly not to concur in the report of the committee but to eliminate Article 13 from the Constitution. I move you, Mr. Chairman, that the Committee of the Whole do not concur in the report of the Committee on Agriculture, and that Article 13 of the present Constitution be omitted from the new Constitution.

CHAIRMAN WHITMAN. You have heard the motion of the gentleman from Cook. Is there any debate on this question?

Mr. DUNLAP (Champaign). While I am in sympathy with a good deal that the gentleman from Cook has said with regard to the legislative matter in this article, I am not in sympathy with the motion that would strike this out from the Constitution. This article might be re-written and put into a section of the Constitution on legislative matters and it would probably cover what is necessary so far as reference to warehouses is concerned, but I want to say that this matter that is in the Constitution now is of great importance to one of the big interests of the State and that is the shipping interests, and whether a man is engaged in the shipment of grain entirely, or in some other form of shipment, we would be, I think, making a mistake to eliminate this entirely from the Constitution.

In the first place, a description of what constitutes a public warehouse and the property stored therein ought to be in the Constitution. In the second place, the language with reference to the inspection of grain in such warehouses and the posting of notices as to the quality and amount of such should be so plain that there would be no question about that part of the duty of the General Assembly. In other words, the description of what constitutes a public warehouse can authorize the legislature to provide for the government of that warehouse and the question of transportation and delivery of the product and the connection that should be made with railroads from these different warehouses shall or should all be, in my opinion, authorized in this connection. It might be re-written, and if it was the consensus of the opinion of this Committee of the Whole that it should be condensed and re-written and put into one section of the Constitution, then the Committee on Agriculture, or some other committee, should so re-write it. But this motion to eliminate it entirely from the Constitution would be a mistake, I think. We have had this article in the Constitution for fifty years, and to upset that at this time would lead to some conclusions, I think, on the part of some people, that would be wholly undesirable. In other words, if the shippers feel that we have eliminated from the Constitution the protection that they have been working under for fifty years, they would feel about as uncertain and uncomfortable under that as they do now under this management of railroads by the Govern-

ment and the subsequent return to private ownership. We could create a still greater unrest if we were to eliminate this from the Constitution, and I think we would bring up a conception in the minds of the shippers of this State that would be very undesirable.

For that reason I do not feel like making a motion to recommit or reconsider this or send it to another committee, and I do hope that this motion will be voted down.

Mr. GREEN (Champaign). My mind with reference to this article is that either the motion to eliminate it should prevail, or that it should be written into the Constitution exactly as it was, or else it ought to be eliminated entirely, with the exception of section seven.

I think a little discussion and consideration of what this article does and what it teaches might be helpful. There is not a thing in this article of the Constitution that is not within the police power of the State that is exercised by the General Assembly. As the delegate from Cook so well stated, the Supreme Court of Illinois held, the first time it had to consider this question, in a case that has become famous on the subject of regulation of private industries, that it was incongruous in the Constitution because it was peculiarly a legislative provision. That case went to the Supreme Court of the United States, and in affirming the opinion of the Supreme Court of Illinois, they made bare reference to the fact that there was a Constitutional provision of this kind and said that, wholly independent of the constitutional provision, the power of the State to regulate the subject matter there involved was present. But this committee, by these processes of insertion and elimination, has made this article dangerous and disastrous, and it shows, in my judgment, a misunderstanding of the thing that it was meant to create and the function it should perform, if any. The only reason I would be willing to leave it in the Constitution is that somebody might be inclined to be against the Constitution as a whole because that had been eliminated because they did not know that nothing had been taken away from the legislature by leaving that out. It does nothing and it takes away nothing to put it in or leave it out. It just occupies that much space in the Constitution.

If, however, there were any doubt upon that proposition, Section 7, which provides that the General Assembly may pass laws for the inspection of grain and for the protection of shippers and receivers of grain and produce would cover the whole question or subject. You note that Section 7, as the committee changes it, inserts the word "and" before the word "for." That makes a lot of difference. They may pass laws first for the inspection of grain and they may pass laws for the inspection of producers—shippers and receivers of grain and produce. What kind of laws? For their protection? It has no reference to the matter of protection. But you can see that with that kind of constitutional grant, the power of the General Assembly to interfere with private business of the merchant and the farmer, as well as the warehouseman, is unlimited, and it would revive a field of legislation that never ought to be countenanced in the State of Illinois.

But the real purpose of the committee is disclosed by the amendment they made in Section 1, which, in my judgment, is absolutely wrong. The old section provided that all elevators or storehouses where grain or other property is stored for compensation is declared to be a public warehouse. Now they insert the words "is stored for the public." That is exactly what we want to avoid. If we are to have any legislation at all, we want not to put these public warehouses under regulation because they are storing food products for the public, but because they are storing them for the profiteer or the private owner. Nothing could prevent that with that in the Constitution. In a case where a man was getting a corner on wheat or a corner on potatoes, nothing could prevent him from being immune from any regulation by the State, because he is storing it for himself, but in order to be within the Constitution, this article would have it provide that it must be stored for the public.

What does that mean? When is it stored for the public? If anybody would define it for me, it would enlighten me very much. But with the article worded as it has been submitted, it can have but one intention, and that is to take out of the operation of this article the storage of grain by private individuals and corporations. That is exactly what is seeking to be effected here, and it was to prevent that very kind of thing that it ever got into the constitution in the first place.

Then, in Section 2, they seek to further eliminate certain businesses which might come within the constitutional protection or provision by limiting it to public warehouses in which nothing but grain is stored. The purpose before, when the Constitution was written, was to bring that within the regulation of the State, under the mistaken notion that they did not have that power anyway—to bring within the law enforcing provisions under the police powers of the State all kinds of warehouses where all kinds of food products were stored, and perhaps other things besides food products. Public warehouses are places where grain or other property is stored. We need not enlarge upon it. There may come a time when a corner on lumber would be a bad thing and there might come a time when the storage of that kind of thing would want to be made the subject of State regulation.

Now, by inserting in the Constitution a clear and definite policy that it is intended to exempt everything but grain, and it is intended to exempt everything except that which is stored for the public, would, in my judgment, create great feeling against the Constitution. The ideas which actuated the committee were, no doubt, perfectly sincere, but the product of the changes in this article is disastrous and dangerous and ought not, in my judgment, be countenanced.

After all, it seems to me if we are to follow the mandate that came to us from the people that we were going to strike out legislative matter from the Constitution, and the Supreme Court of Illinois and the Supreme Court of the United States have said this was purely legislative matter, that it was incongruous in the Constitution, we will not be subject to criticism if we struck it all out. But if we are going to leave it in, let us be consistent; let us see that we really protect the thing which the old Constitution was trying to protect. Let us not eliminate these very things that today are the subject of debate and consideration all over this country and which can be regulated independent of any constitutional provision and do not let us put in the Constitution such language as will eliminate from State regulation such things for which there is a demand for State regulation.

Mr. GRAY (Adams). I cannot agree with these gentlemen who seem to want to eliminate this article from the Constitution. The agricultural people of the State would rise up in protest if this article is not left in the Constitution. I am a member of the Agricultural Committee and during my lifetime have been engaged in the grain trade and was for a time an employee in the grain office in Chicago, under State appointment. I want to say that during the time I was there in that grain office people came from all parts of the world to study the Illinois warehouse system, and they made records and took them to Australia, South America, and all parts of the world, and confirmed the idea that Illinois had the best warehouse and grain inspection system in the world.

We must not think for a moment of leaving this article out of the Constitution. We did for a long time hold to the opinion that we would leave it word for word, or just as it was, and, rather than think of eliminating any part of it, I am satisfied that the committee will fall in with Mr. Green's suggestion and leave it just as it is.

Now, about these changes. I want to say to this Convention that we did not put those things in without due consideration and advice. We met with the leading grain people of the State, both from the standpoint of grain inspection and the standpoint of grain warehousing, and we simply went over it as a committee on phraseology would and we simply made changes as we thought were practical, that is, that were, in a sense, not carried out, eliminating those things that were dead issues—such things, for instance, as the storing of household goods and other such things which

we believed were dead issues, and we simply left that out merely because it was impractical and was not carried out. So far as that phrase "for the public" is concerned, I think it may be well to restore that, although this was the idea that the committee had in mind: It was shown that up to the present time no grain was inspected and stored that was not stored for the public. We merely inserted "for the public" to make it agree with the practical carrying out of the law as it is now enforced. If you object to any of these amendments or changes which the committee saw fit to make, please do not eliminate this entire article from the Constitution, but rather let us put it back just as it was, if any of the changes made by the committee are objectionable.

Mr. HAMILL (Cook). The warehouse system that so commands the respect of the world exists by virtue of statute, does it not?

Mr. GRAY (Adams). Based upon this Constitution.

Mr. HAMILL (Cook). But it exists by virtue of statute?

Mr. GRAY (Adams). I understand that the statute gets its authority and is based upon Section 13.

Mr. HAMILL (Cook). You know the Supreme Court says it does not, don't you?

Mr. GRAY (Adams). I do not take that remark of the Supreme Court in the same spirit in which you do.

Mr. HAMILL (Cook). How do you take it?

Mr. GRAY (Adams). I take it for granted that this is the meaning of the remark: That all the warehouse legislation that we have based upon the Constitution might have been purely legislative, but while that is so, I understand that the legislation that is now in force is based upon this article.

Mr. HAMILL (Cook). Do you understand that the legislation now in force would be unconstitutional if it were not for this article?

Mr. GRAY (Adams). No, I don't think so, but why eliminate it?

Mr. GREEN (Champaign). As I remember, you said there were no reports made now by any storage warehouses except those which store grain?

Mr. GRAY (Adams). That is my understanding.

Mr. GREEN (Champaign). Don't you know there are reports made by every storage company in Illinois since the Public Utilities Act was adopted, and the same are required by the statute and the rules of the commission?

Mr. GRAY (Adams). That may be in the Utilities Commission act, but it was not in the warehouse act as it has been enforced.

Mr. GREEN (Champaign). Are not the only reports made those which are made pursuant to some statute, either the Public Utilities statute, or some other one?

Mr. GRAY (Adams). I should say yes.

Mr. GREEN (Champaign). It is not correct, is it, that there are no reports made now by other warehouses except grain warehouses?

Mr. GRAY (Adams). Up to the time of the creation of the Utilities Commission there had been no such report. Was not the statutory enactment passed immediately following the Constitution?

Mr. GREEN (Champaign). Two or three years following it, and it made provision for them filing reports and provided how. With reference to the whole subject matter, may I inquire if there is anything in this article that is not completely covered by Section 7 of the old warehouse article? That is the last section. The question is if there is anything in it that is not covered by Section 7 standing alone.

Mr. GRAY (Adams). I presume not.

Mr. GREEN (Champaign). Then why insert the rest of it?

Mr. GRAY (Adams). Just for the reason that the public down State know this article is here and they feel it is here for their protection and their best interests and to take this out of the Constitution without a thorough understanding and discussion on their part would be a very unwise

and very unpopular thing to do, and in view of the fact that it has been in force for fifty years, and everything is moving along well, gentlemen, I say again, do not eliminate this article.

Mr. McEWEN (Cook). There are some facts in the history of the law on the subject of Article 13 that I think should be brought to the attention of the committee, and that is my excuse for taking the time of the committee. I was a member of the Committee on Distinctions Between Constitutional and Statutory Subjects, and this proposal that Article 13 be in, and the counter proposal that Article 13 be out of the Constitution of 1870 first came before that committee.

An offhand reading of the article impressed me that it was purely a legislative matter, and that it was something which should not cumber the Constitution. Upon further investigation we encountered first this case which has been referred to of *Munn vs. The People*, where the language of the decision indicated that it was purely and principally a Constitutional matter, and later we found cases in the 174th and, I think, the 198th Illinois, where the article was further considered.

It seems that Article 13 was placed in the Constitution of 1870 on the judgment and advice of shippers and grain dealers of Chicago and other places where there were warehouses. It was claimed that the warehouseman who dealt in his own grain was not subject to regulation—that is, stored his own grain in his warehouse, and that that interfered greatly with legislation that was proposed in the legislature, and the matter became of so much general agitation that Article 13 was placed in the Constitution in part as a means of securing the adoption of the Constitution.

Some years after the adoption of the Constitution—I haven't the date in mind, but I think it was 1897, and possibly before—a law was passed in the Illinois legislature permitting a warehouseman to own grain and store it in his own warehouse. That law was brought about by the circumstance that a bill for injunction was filed in the circuit court of Cook county seeking to enjoin the Central Elevator Company from storing its own grain in its own warehouse, contending that the Constitution, by its definition of the warehouses and warehousemen, did not permit the owner of a warehouse to store and deal in his own grain. An injunction was obtained before Judge Tuley of the Supreme Court, forbidding that practice, and that case went to the Supreme Court and was affirmed. While the case was under consideration and on the way to the Supreme Court, the legislature passed this law expressly authorizing the warehouseman to store grain in his own warehouse. Under that law, the warehousemen, and particularly the warehousemen of Chicago, proceeded to do as they had done before, and a contempt was instituted in the original case in Chicago against some offender, and the case resulted in a finding of contempt in that there had been a violation of the injunction, it being held by Judge Tuley that the law as passed by the legislature was unconstitutional, and a fine of \$100 was imposed. That case went to the Supreme Court and was reported in the case of *Hannah v. The People*, 198 Illinois, at page 77. There is a very extensive discussion, the effect of it being that section one was a limitation upon the power of the legislature, and also that the article itself imposed a mandate upon the legislature.

I may say that the Committee on Distinctions, upon learning that the article had been construed by the Supreme Court as a limitation upon the legislature, considered that it was a constitutional matter, and was a subject, therefore, to be considered by a proper committee, and my impression and view is that we should not go any farther or extend Article 13, nor should we change it. That we should accept it as it is, with all the legislation and construction that has been placed upon the Constitution and the legislation, or it should go out. I am wholly in accord with the gentleman from Champaign in his remarks on that subject. It was not a constitutional matter, in the first place. It has become a constitutional matter by enactment and practice, and to that extent only am I willing to go on treating it as a matter of constitutional import.

In the case of *Hannah v. The People*, the Supreme Court, speaking by Mr. Justice Boggs, at page 82, said:

"Upon the merits, the only question involved in the case is the constitutionality of said amendatory act of 1897. Careful consideration of this question has brought us to the conclusion that the provisions of the amendatory act are inconsistent with the spirit and purpose of the provisions of the Constitution of 1870 with relation to public warehouses, and that the said act of 1897 must be declared inoperative for the reason it is in contravention of such constitutional provisions.

"That the framers of the Constitution deemed the matter of the protection of producers and shippers of grain against wrong, frauds and impositions on the part of those engaged in the business of providing storage for grain of great importance, is demonstrated by the fact they devoted an entire article of the Constitution to that subject. * * *

"Under the Constitution of 1870, and the enactment of 1871, adopted in obedience to the constitutional requirements, public warehouses licensed under the act of 1871 are public agencies, and licenses under that are to be regarded as pursuing a public employment and as charged with the performance of duties toward the public. * * * The Constitution declares such warehouses shall be public warehouses. This constitutional provision impresses the business of keeping a public warehouse with a public use, and those who apply for and accept licenses to keep public warehouses under the Act of 1871 voluntarily occupy a relation to those who store grain in their warehouses, or have the right to so store grain, which makes it incumbent upon such warehousemen to discharge certain duties to such owners and producers and shippers of grain. The license authorizes the warehouseman to pursue a public employment * * * If the duty of the defendants as public warehousemen stands in opposition to personal interest as buyers and dealers in grain storing the same in their own warehouses, then the law interposes a preventive check against any temptation to act from personal interest, by prohibiting them from occupying any such position. The public warehouses established under the law are public agencies, and the defendants, as licensees, pursue a public employment. They are clothed with a duty toward the public. * * *

"That the exercise of the right purported to be given to the keepers of public warehouses by the said mandatory act of 1897 to store their own grain in their own warehouses, mix it with any grain of others which they may decide is of like grade as their own grain, and issue and buy warehouse receipts representing or purporting to represent their own grain, etc., is incompatible with the fair, faithful and impartial discharge of the public employment of a keeper of a public warehouse, is well shown by the following extract from the opinion of this court in said *Central Elevator Co. v. People*, *supra*, p. 208: "The evidence shows that defendants, as public warehousemen, storing grain in their own warehouses, are enabled to, and do, overbid legitimate grain dealers by exacting from them the established rate for storage. while they give up a part of the storage charges when they buy or sell for themselves. By this practice of buying and selling through their own elevators the position of equality between them and the public whom they are bound to serve is destroyed, and by the advantage of their position they are enabled to crush out, and have nearly crushed out, competition in the largest grain market in the world. The result is that the warehouseman owns three-fourths of all the grain stored in the public warehouses of Chicago, and upon some of the railroads the only buyers of grain are the warehousemen on that line. The grades established for different qualities of grain are such that the grain is not exactly of the same quality in each grade, and the difference in market price in different qualities of the same grade varies from two cents per bushel in the better grades to fifteen cents in the lower grades. The great bulk of grain is brought by rail and in carloads and is inspected on the tracks, and the duty of the warehouseman is to mix the carloads of grain as they come. Such indiscriminate mixing gives an average quality of

grain to all holders of warehouse receipts. Where the warehouseman is a buyer, the manipulation of the grain may result in personal advantage to him. Not only is this so, but the warehouse proprietors often overbid other dealers as much as a quarter of a cent a bushel, and immediately resell the same to a private buyer at a quarter of a cent less than they paid, exacting storage which more than balances their loss. In this way they use their business as warehousemen to drive out competition with them as buyers. It would be idle to expect a warehouseman to perform his duty to the public as an impartial holder of the grain of the different proprietors if he is permitted to occupy a position where his self-interest is at variance with his duty. In exercising the public employment for which he is licensed he cannot be permitted to use the advantage of his position to crush out competition and to combine in establishing a monopoly, by which a great accumulation of grain is, in the hands of the warehousemen, liable to be suddenly thrown upon the market whenever they, as speculators, see profit in such course. * * *

"If we are right in holding as we did in *Central Elevator Co. v. People, supra*, that a public warehouseman of class 'A' could not, under the provisions of the Constitution of 1870 and the provisions of the act of 1871, store his own grain in his own warehouse, grade the same and mix it with the grain stored there by his customers, we entertain no doubt it was beyond the power of the General Assembly to confer on such warehouseman the right and power to do so by the amendatory act of 1897. * * * The denial of the right of a warehouseman to buy and store his own grain in his own warehouse had its basis in the inhibition clearly implied by the Constitution. It was manifestly beyond the power of the General Assembly, by the enactment of the amendatory act of 1897, to relieve public warehousemen of a duty charged upon them by the provisions of the Constitution of the State, or to remove the inhibition clearly implied by the organic law.

"The Constitution is a limitation upon the power of the General Assembly, and the incorporation of the provisions of the Constitution with reference to public warehouses was for the purpose of placing it beyond the authority of the General Assembly to relieve those who should engage in the business of conducting public warehouses from the discharge of their duties to the public. The manifest intent of the Constitution is that its provisions should operate for the protection of producers and shippers of grain."

That is the construction which has been placed upon Article 13 by the Supreme Court of this State, and as I regard the law, I think it is fairly well settled in this State. When we begin to cut out words, we begin to tinker, as I see it, with legislative matters, or a matter which was originally legislative, and I think we disturb the whole situation, a situation that is satisfactory now to everybody except the warehousemen.

The warehouseman does not want this article in the Constitution. He thinks it works unfairly against him, but he exists, and he has the legislature to go to, and he is restrained in nothing that I know of, in my reading of the law, except that he cannot deal in grain and be a dealer in grain and keep that grain in his own warehouse and store the grain of others at the same time. So I say that I am against this article as it is amended, but I am with the old Article 13 as it stands.

Mr. WHITMAN (Boone). I move, as a substitute for the pending motion, that Article 13 of the Constitution of 1870 be substituted for Article 13 as reported by the Committee on Agriculture.

Mr. TRAUTMANN (St. Clair). Primarily I am in favor of the motion made by the gentleman from Champaign, Mr. Green, with the exception that if his motion prevails, the Constitution should have written into it Article 4, the legislative article. Personally I do not think that this proposal should be adopted, and if the motion of the gentleman from Champaign is not adopted, then I am in favor of the motion made by the gentleman from Cook. If that fails, then I am in favor of the motion made by the

gentleman from Boone, that the present Article 13 of the Constitution be retained.

I have no particular objection to the amendment made in Section 1, but I have serious objections to the amendments made in Section 2, and there are two of them, only one appearing in this typewritten substitute. The reason the other does not appear is because it is an elimination. Now, then, Section 2, which applies only at the present time to the City of Chicago, the amendment is that the owner, lessee or manager of any public warehouse in which grain is stored, and in the printed copy of the Constitution, found on page 110, line 10, and on page 111, line 1, this is eliminated—"together with such other property as may be stored therein." In other words, there is an attempt made here to provide simply for the storage of grain, and for reports to be made thereon by the owner, lessee or manager of warehouses, and if that prevails, then I take it that that would be a restriction upon the legislature to pass any laws, either your present public utility laws or your old railroad and storage laws, providing for the inspection of products that are in warehouses. I take it that it is far more important to the people of this State and of this Nation, or anywhere else, to have the supervision of Section 2 apply to the storage of fruit, of meat products, of vegetables, or of eggs, or many other articles of food. Under this you are limited absolutely to grain.

Some of you gentlemen here know that the regulations today with reference to the reports and inspection of the Public Utility Commission provide that eggs and fruits must be stored in public warehouses. Eggs can only be stored so long. My recollection now is six months, and it provides that there will be these regular reports made under oath. All of that is eliminated here and it only applies to grain, and I would ask, why apply it only to grain? I am not saying that there was any ulterior motive in making these amendments, but I do not understand why they were made, because I believe it is more important to have these reports made and the inspections made with reference to the other food products than it is to any grain that was ever raised.

Now, gentlemen, as I said before, for the reasons advanced here I see no necessity for keeping any of this article, except Section 7, founded absolutely upon the decisions of this court and of the United States. The only argument—if it can be called an argument—that has been advanced at all, is the one made by the gentleman from Adams, that the country people have been accustomed to this article for fifty years and they have the impression that they are getting more protection under Article 13 of the Constitution, which they might not get if you simply retain Article 7. But all lawyers know that they have the same protection and will get the same protection under Section 7 as they will under the entire article.

So, as I said before, I am in favor of eliminating the six sections, and if that cannot be done, I am in favor of retaining the entire article.

Mr. HULL (Cook). We are in a parliamentary situation that is not entirely agreeable to me. I would like to vote for Mr. Hamill's motion, and if I cannot, I would prefer to vote for the motion made by the gentleman from Boone, but we are in a position where we are required to vote on his motion first as a substitute. Unless he insists on his motion as a substitute and does not want to have the article cut out, I should like to have that done.

Mr. GREEN (Champaign). I think I misunderstand the motion of the delegate from Boone. His motion is to substitute before the committee the old article, and thus make it subject to amendment and discussion, but it would effectually dispose of the committee's report. Then we would have before us the substitute for reconsideration?

Mr. HAMILL (Cook). If that is the gentleman's motion, I withdraw my motion.

CHAIRMAN DUNLAP. Is that satisfactory?

Mr. WHITMAN (Boone). That was my idea.

CHAIRMAN DUNLAP. The motion is that Article 13 of the Constitution of 1870 be substituted for Article 13 as presented by the Committee on Agriculture.

(Motion prevailed.)

CHAIRMAN DUNLAP. The secretary will read each section, beginning with Section 1.

Mr. HAMILL (Cook). I now renew my motion to strike out Article 13 of the present Constitution.

CHAIRMAN DUNLAP. I think the gentleman's motion is hardly in order at this time. We have begun the reading of the sections, and, as I understand it, the renewal of the delegates' motion puts it in the same position in which it was before the adoption of the motion of the delegate from Boone.

Mr. HAMILL (Cook). There is now pending before this committee for consideration Article 13 of the present Constitution. In order to save time, and to get the sentiment of the Committee of the Whole, I move that Article 13 of the present Constitution be eliminated.

Mr. TRAUTMANN (St. Clair). I amend that motion by eliminating from the motion of the gentleman from Cook Section 7 of Article 13.

Mr. HAMILL (Cook). I accept the amendment.

CHAIRMAN DUNLAP. The chair will have to rule that either the motion of the delegate from Cook is in order as a whole or no amendment of that character is in order, or else that we read the article section by section and pass upon each section, as required by the rule.

Mr. HAMILL (Cook). I accept the amendment of the delegate from St. Claire.

Mr. LINDLY (Bond). I think the proper solution of this question would be the adoption of the old article. It has been in for fifty years, it has been construed by the courts, and the departments have inspected the grain in accordance with it, and now the Utilities have charge of the storage of different foods and we seem to be satisfied with it, and I believe the best thing for this Convention to do is to adopt the old section of the Constitution and not eliminate it from the Constitution.

Mr. HAMILL (Cook). I did not suppose, after the debate of last week, that any gentleman would urge retaining anything that appeared in the old Constitution.

Mr. KERRICK (McLean). There are a number of objections to this article which have not been mentioned. There is one of great importance which has been passed on by the Supreme Court of this State. There are others, no doubt, which, upon consideration, will be found to be of considerable value. Perhaps that may be the case with reference to everything in the Constitution. This article, as has been said, has been in the Constitution for fifty years. As far as I can recollect, very little, if any, complaint has been made because it may, in some of its parts, savor to some extent of legislation. It occupies a very short space in the body of the Constitution, and it is an open question whether or not it is legislative in any respect. The fact that the Supreme Court has seen fit to say that it is legislative, or that without it the legislature would have had power to do certain things, is not, in my opinion, a matter of very considerable weight. When a court does, as it has in this case, go outside of what has been argued before it, to express itself in an opinion, it is simply what lawyers call "slopping over," and has very little respect either from lawyers or from courts themselves.

The question as to whether or not what was done in the case in which that language was used might have been done without the Constitution was not before the court for decision at all. The court assumed the privilege, or took advantage of the opportunity, to make some extra judicial remarks to relieve itself, perhaps, of an over-abundance of general information on legislative and constitutional provisions in general.

Now, as I said before, we are undertaking to bite off too much at one bite. This article is something which perhaps occupied as great a part of

the attention of the Constitutional Convention of 1870 as any other one article. It introduced into this State provisions with reference to commerce, such as the one included in this article, which have been the admiration of the world and which have done a great deal of good for the State of Illinois, and perhaps we had better leave it in than to risk a legislature to do something just as good without it. Here is a section which has been passed on by the Supreme Court of this State which is one of very great importance. It has not been alluded to in this wholesale motion and in this partial discussion. Section 4 reads:

"All railroad companies and other common carriers on railroads shall weigh or measure grain at points where it is shipped and receipt for the full amount, and shall be responsible for the delivery of such amount to the owner or consignee thereof, at the place of destination."

Under that there has been legislation provided that in order that a railroad shall exempt itself from liability to pay for a full amount of grain which the seller has delivered to it, it must provide platform scales at warehouses or stations and if they do not provide such scales, then they become guarantors of the receipt on its destination of the amount of grain which has been delivered to it. That has been passed on by the Supreme Court of this State, and the Supreme Court, in passing on that, has not gone aside from what was before it to say that the legislation may just as well have been made without any constitutional provision. It does not sneer or scoff at this provision of the Constitution. It said it is fundamental, though, upon which the legislature can enact legislation which was in dispute before it at the time. This is not all that might be said, but it is just one of no doubt a number of things which obliteration might develop. We are certainly adopting a method of progressing here that is just a little bit too rapid, because we have under consideration to begin with, whether or not the little section of an entire Constitution should or should not remain, and after considerable yea, yea and racket, there is put before this assembly the proposition to destroy by one vote an entire article of the Constitution of this State, which, in my opinion, has in its benefits been equal to any other article in the Constitution.

Mr. WARREN (DeKalb). I do not want to discuss this from a legislative or constitutional viewpoint. What I am interested in is an elevator that is shipping, I suspect, a million bushels of grain to the Chicago markets every year. Who is it that is asking that this be stricken from the Constitution? Is it those who are interested in the State of Illinois in the shipment of grain or those who are connected with the Board of Trade in the City of Chicago and want more protection? When we ship our grain we want to know that it is received in Chicago in the same condition in which we shipped it. We want to know that if we sell 50,000 bushels of a grade of grain, that that grain is protected. If you strike from the Constitution this article which relates to the grade of grain, that would be a dangerous thing to do. I am not familiar with the legal points and whether we are protected in the legislative features, but I think it would be a serious mistake to strike this article out. I was not in favor of the changes and I am in favor of retaining this article of the Constitution the same as in 1870.

Mr. GEE (Lawrence). I think we would be taking a dangerous step to eliminate this article from the Constitution. We are getting out from a certainty into a sea of uncertainty, and that is always a dangerous road to travel in any respect. This present Constitution requires that when grain goes into a warehouse that some kind of a record should be kept of it and receipts should be issued, and with some certainty it may be known how much grain shall be shipped. That is a valuable asset to the grain producers of the State of Illinois, as well as to the shippers and the buyers and all the people concerned in it. Now you propose, without any reasons, so far as I have heard from anybody, to leave it to the General Assembly. You split hairs as to what the Supreme Court has said as to whether it was necessary to have a constitutional provision or not. It is very imma-

terial, gentlemen, as I see it. The Supreme Court may have meant that under the police powers the General Assembly might pass a law to prevent a wrong being done. I want to put a question to each gentleman here now to think about: What are you certain of when you leave all the power to the General Assembly to pass an act to protect the shipper and the producer? How certain are you how long it will last? How soon would it be changed and modified so that the first man who introduced the bill would not know it? For fifty years we have been working under this warehouse article in the Constitution. The only objection I saw to it when we were discussing it in our committee was that it did not go quite far enough, that it was limited to public warehouses in cities having a population of 100,000 or more. I think it ought to apply to any public warehouse that issues a receipt.

These receipts, gentlemen, mean something. They mean something not only to the man that stores his grain, not only to the man who owns the warehouse, but they mean something to the third party, who, most times, advances his money upon the security of a warehouse receipt. I had a great example of that in my life which might not be out of view on this question. I put my money at one time in a lot of warehouse receipts of a whisky concern. They were then the best security and offered the best rates. At a later date I was called to the City of Chicago in conference with a great many very eminent gentlemen. Every large bank in Chicago held those warehouse receipts, and we got together and I found a gentleman, city bred—thoroughbred, I might say—in financial affairs, from one of the largest banks in Chicago, who had a duplicate receipt of the one I had. We both had fifty barrels of whisky and we both had advanced our money on it, but there was no security back of it. I thought the government protected us, and I found out that we had no protection at all. Now, under this constitutional provision, as I understand it, when the corn is stored in Chicago—and I might as well use the name Chicago because that is practically all the delegation we have on this question—when a receipt is issued and a bank loans money on the faith that the goods will be produced, he has a guarantee for the money he puts in a warehouse receipt. If you want to wipe out all that certainty and leave it to the General Assembly under section 7 to pass a law if they want to or not, very well. You can split hairs about legislative provisions and constitutional provisions just as long as you please. The last analysis is the great question of fact. Is the receipt substantially the fact that the grain is there? That is what a man wants to know. We want to do what we can to prevent speculation and falsity on this proposition. We have now, as I see it, some degree of certainty that when one of these warehouses in a city of over 100,000 issues a receipt that the grain is there. It protects the owner of the grain, it protects the warehouse man and it gives the statistics to the world so that it can be figured on to a certainty as to what is in stock for the world's supply.

Most of us have to depend upon market reports. The farmer particularly must depend upon the price fixed to him. He is the only man in the world's production, in the commercial forces of the world, who is voiceless as to the price he pays or the price he receives. He has a right to hold his own grain. He has a right to store it and pay for the storage and know that he has it there, and he has the further right to know that he can sell to his best advantage. You want to knock that prop from under him. You want to wipe out all of this Article 13 and leave him bound and tied with a whip of steel to go to the legislature to get any relief at all. I am not in favor of that kind of a proposition. This has been a time-tested article. It has produced some results, and now you want to throw it back into the sea of uncertainty and tell us grain producing people of my district to come and beg something from the legislature. We have something now. I think it can be bettered. I am in unison with the proposition of the gentleman from St. Clair that it ought to apply to more than it does, but let us hold fast to what we have, at least, and try to get more, if we can.

It is a step backwards, and into whose hands are you placing the determination of one of the most important questions in the world? They do

not need any legislation to handle these warehouses to guarantee markets. They will protect themselves. It is all they can do now, with all the constitutional provision, and I tell you what the Supreme Court has said is in its favor. No man can garble the language of the Supreme Court in any decision that militates against the results that are to be derived. I know you gentlemen have come here to alter, not to destroy, and I hope we will proceed on that principle.

Mr. KERRICK. (McLean). Supposing this is legislative, and suppose the next legislature should take the view that it was just as well disposed of by legislation that had been made in this provision of the Constitution. They could do it and not leave a syllable of such legislation upon the books and never put one back, but they cannot repeal this law which has been made in conformity with the Constitution, because they will meet then with the propositions before the Supreme Court in a different way from what has been met before. The Supreme Court says you are bound to preserve and keep such legislation as that because the Constitution says so. The makers of the Constitution have declared that it is fundamental law and you cannot destroy a system of legislation which is already on the statute books, but with this eliminated, they can do just as they please about that legislation. They can destroy it and they are not required to replace it.

Mr. WOODWARD (Cook). I have no desire to shorten this debate, providing some points are brought out which seem to have some bearing on the matter under discussion. I have tried to listen with considerable patience to the arguments that have been advanced so far against the adoption of the motion, and the principal reason so far advanced by those seeking to prevent its adoption has been their fear as to what the legislature may do in the future. In view of what occurred here last week, I am somewhat apprised of the apprehension on the part of many of these gentlemen from the rural districts as to how their affairs will be looked after in the future, and I think we should give that phase of it very little consideration, because if they carry out their designs I think they will be able to protect themselves as far as the legislature is concerned.

One of the other arguments that was used was the fact that the farmers had been told that this article would be written in the Constitution and be amplified further to suit their requirements and demands, and if we fail in retaining it, in all probability they will be so greatly disappointed with the Constitution that we will turn out here that it will very likely be turned down. We might use the same argument on what occurred last week. It seems to me we are ready to vote on this question, and while I do not propose to make the motion to close the debate, I hope that my views will be shared in by a sufficient number of members of this committee, so that if it is continued to any great extent that some one will have the temerity and the courage to make such a motion.

Mr. ELTING (McDonough). I do not care to speak at length on this subject, but I have heard in this debate, as in former debates, the charge made that the reason this should be eliminated from the Constitution is that the substance of this article is statutory. That we will admit is true, and when we stop to consider, we have three sources of law, law that is made by constitutional provision, law that is made by the legislature, and our common law that is in vogue in this country. What if this is statutory in character? It was adopted by the Constitution of the State of Illinois and is a law. Now, it seems to me that the only question we should decide here, or determine, is whether it is a good law or a bad law. If it is a good law, why repeal it, or why shift it to the uncertainty of legislative enactment? I have heard in this debate that there are good provisions in this article and I have heard no word spoken against the provisions. I agree with the delegates from Champaign and from Cook that the old article is much preferable, in my mind, to the one reported by the committee. I would not support the article as reported out by the committee, but I am in favor of adopting the article as it is in the Constitution of 1870, because the fact that it might be enacted by a legislature is no reason for eliminating it from the Constitution. If we eliminate this from the Constitution we give

the impression to the people that we do not care to stand for the provision contained in that article. Now, there is no disagreement in this house as to the provisions of this article—that is, the usefulness of it—but simply a claim or demand made by certain delegates that it is statutory and can be just as well enacted by legislature. If there was some argument made against this article that the law was wrong and was not beneficial in its character, or some other good reason why it should not go in the Constitution, except the poor reason, as I call it, that it may have been enacted by a legislature, I am not in favor of making that distinction. Because it is a law. It is a superior law to those passed by a legislature because it is not so easily changed, but I have not heard any arguments that it should be changed, that it might suit now and be out of date ten years from now. I have heard nothing but good reports in regard to this article; I think theories are all right, and if we were making a new Constitution and this article was not in the old Constitution, I would not be in favor of putting it in.

But I object to taking it out. Why? Because it is a law of the State of Illinois and it is a good law, and what is the use of repealing and doing away with a good law and passing the buck to the legislature to pass something that may not be as good as this? What assurance have we that a legislature will pass as good a law as we have now in regard to warehouses? Those are the questions to be considered in striking out this proposition. If it is a bad law, strike it out; if it is a good law, keep it.

There are many things in this old Constitution that are legislative in character, but it is the law of the State of Illinois, and if we brush it off the books, then we haven't any law and we must wait for the uncertainty of the legislature to enact another. We have grave trouble enough in this country at this time caused largely by following theory and avoiding and disregarding practical things.

For my part, I shall vote to retain the old article in the Constitution.

Mr. GREEN (Champaign). I would like to take just a minute of your time to correct some misapprehensions. The delegate from McLean made a statement which I am sure, upon reflection, he will not maintain is correct that is, that the legislature cannot repeal the present statute covering warehouses. That is not correct. The legislature can repeal it on the very first day of its next session, if it so chooses, and there is no way in the world to compel them to pass another one if they do not wish to do so.

I am in accord with what has been said about protection, but the distinguished delegate who argued that this should be retained for the protection of holders of warehouse receipts surely could not have read this article. I believe, with the delegate, that a man who advances money on warehouse receipts ought to be protected, and that a man ought to know when he gets a warehouse receipt that the grain is in the elevator. There is not a thing in this article which requires that, and I ask the question whether or not a statute could be passed that would cover that, in view of the provision of the article requiring that as it now stands.

As I said before, if we are going to have anything, we should have the entire article as it was. Let me call your attention to Section 6, as it reads now. You gentlemen who are in favor of the amended article because you want protection, let me ask you a question. Article 6 reads:

"It shall be the duty of the General Assembly to pass all necessary laws to prevent the issue of false and fraudulent warehouse receipts, and to give full effect to this article of the Constitution, which shall be liberally construed so as to protect producers and shippers."

The whole article is directed to the protection of producers and shippers, and that is the thing that makes me doubt the wisdom of keeping it there. I certainly think we ought not strike it out unless we can, in our own minds, imagine that some benefit would come, on account of the danger of somebody being against the Constitution because we have stricken it out. Do you not all agree that today the great problem before the legislature is the protection of the consumer as well as the producer and the shipper, and is it not a question whether or not, with this in the Constitution,

this assembly legislation affecting warehouses would be constitutional in the absence of an affirmative grant of power to legislate on that subject, and with the specification and enumeration of the powers for which this constitutional provision is made?

And to the gentleman who argues that he should have protection for his warehouse receipt, I ask him where in this Constitution can he find authority for the legislature to pass a law to protect him in his warehouse receipt? The law as it stands simply recognized a practice that they followed in issuing receipts, and says that when receipts are issued they shall have certain characteristics. My whole purpose and my whole thought is not that we repeal a line of the statute for the protection of the producer and the shipper, and the statute is what protects him now, and it is not this Constitution at all. Maybe it was necessary to put it in the Constitution in the first place in order to get the legislature to act, but we want the legislature to go further than they have gone and protect the consumer, who is also interested in the piling up in warehouses of foodstuffs and the other necessities of life. And therefore, with this danger of an implied prohibition because of the enumeration for the purpose for which it is made, are we not taking the chance that we are preventing the legislature from doing in the future that thing which is the crying need of the present period?

Mr. PADDOCK (Sangamon). I move the previous question.

CHAIRMAN DUNLAP. The chair understands the motion of the delegate from Cook, Mr. Hamill, to be that the entire Article 13 be eliminated from the Constitution. The delegate from St. Clair, Mr. Trautmann, offers an amendment that all but Section 7 be eliminated. Rule 45 requires that proposals submitted to the Committee of the Whole shall be first read through and acted upon by sections. The chair is very much in doubt as to the motion of the delegate from St. Clair as to the amendment, that is as to whether it is in order. The Chair is of the opinion that such a motion would be in order, but to select certain sections before the article has been dealt with section by section would hardly be in order, in view of the rule.

Mr. GREEN (Champaign). That is exactly in harmony with the rule. The amendment deals with one section only.

CHAIRMAN DUNLAP. But not in the regular order.

Mr. GREEN (Champaign). There is nothing in the rule about regular order.

CHAIRMAN DUNLAP. It says, "They shall be acted upon by sections."

Mr. KERRICK (McLean). Every section in this article, except the first and the sixth and the seventh, are self-executing.

CHAIRMAN DUNLAP. The question is on the motion of the delegate from Cook, Mr. Hamill.

Mr. HAMILL (Cook). If the question is to be put at all, it is on my motion as amended by the delegate from St. Clair. That is the only motion pending before the house now.

CHAIRMAN DUNLAP. I will say that the chair is somewhat in doubt as to the position taken, but for the purpose of arriving at a conclusion here, I think that the chair will entertain the motion as amended.

(Motion lost.)

Mr. WHITMAN (Boone). I now move that Article 13 of the Constitution of 1870 be incorporated into the Constitution we are now making.

Mr. HAMILL (Cook). I move that it be considered section by section.

Mr. WHITMAN (Boone). You have just overruled that kind of a point of order, and I think we can proceed on the other theory.

CHAIRMAN DUNLAP. I would like to make this suggestion direct from the platform, if the committee will permit: That the word "may" in Section 7 was substituted for the word "shall" for the reason that the inspection of grain is now being taken over by the United States Government, and under this provision here, as explained to the committee by the department in charge of warehouses of the Public Utilities Commission, with that word "shall" in there the State of Illinois will have to continue to pay for such service. With the substitution of the word "may" for

"shall" it is possible that the State can be exempted from making that payment for the service of inspection. I state that for your information. I suggest that that might be amended in Section 7. Would the gentleman from Boone care to modify his motion to include the first six sections?

Mr. WHITMAN (Boone). I accept the modification.

Mr. GREEN (Champaign). I think we should have had that information before we voted on it.

CHAIRMAN DUNLAP. I will say that the chair neglected to make that statement simply from lack of memory with regard to that.

Mr. TAFF (Fulton). Do I understand that the word "may" is substituted for the word "shall?"

CHAIRMAN DUNLAP. That is for the committee to say, whether they care to adopt that. I simply asked the gentleman from Boone to omit Section 7 from his motion.

Mr. WHITMAN (Boone). All right, the first six sections.

Mr. TRAUTMANN (St. Clair). I desire to offer an amendment to the motion of the gentleman from Boone, to Section 2, by striking out the figures "100,000," and substituting therefor the figures "50,000."

Mr. WHITMAN (Boone). I desire to withdraw my previous motion and move that we proceed with the consideration of Article 13 of the old Constitution so as to incorporate it in the new Constitution.

Mr. TRAUTMANN (St. Clair). I withdraw my amendment.

CHAIRMAN DUNLAP. The clerk will read Article 13.

(Article 13 was read by the clerk.)

CHAIRMAN DUNLAP. Article 13 having been read, Section 1 is now up for consideration.

Mr. JACK (Jasper). I move that it be adopted.

(Section 1 adopted.)

Mr. TRAUTMANN (St. Clair). I move that we strike out the figures 100,000 and insert in lieu thereof the figures "50,000," so that it will apply to cities of 50,000 or more inhabitants.

Mr. DAWES (Cook). I wish to ask the delegate from St. Clair to explain a little more fully the purpose of this amendment. Before voting upon it I should like to hear from him a statement as to the methods of transacting business in grain stored in warehouses in the smaller communities. I regard this as a limitation upon the authority of the legislature to control a matter which inherently is within its power, and if we restrict that power with respect to cities of 50,000 population, then surely it ought to be upon some basis that can be clearly understood by delegates to this Convention. This whole business seems to me to be a business which inherently is in the control of the legislature. This article does not provide for the giving to the legislature of any power. It limits the control of the legislature. Now I ask the delegate from St. Clair why should the control of the legislature over a public utility of this kind be limited or withdrawn because of the fact that the business is transacted in cities of less than 50,000 people.

Mr. TRAUTMANN (St. Clair). My idea was this: With this provision in the Constitution at the present time, it does not apply to any city except Chicago. There are only two places in Illinois where there is any inspection of grain in any large amount, and that is Chicago and East St. Louis. That is the only place where they have inspectors in large numbers, except one or two inspectors in some other cities.

A MEMBER. Peoria?

Mr. TRAUTMANN (St. Clair). In Peoria you have one man or two; in East St. Louis you have 75 and in Chicago you have them by the hundreds. There is no comparison of any other city in the State of Illinois with Chicago and East St. Louis in the matter of grain. It seems to me that this should apply to cities like Peoria, Rockford, Springfield and East St. Louis, where you have storage of grain and other large warehouses, and that was my only object. I do not understand why this limitation of the population was put in at that figure in 1870. I thought if it was a good thing and the

delegates feel it is a good thing to keep it in the Constitution, that it should apply to all of the larger cities.

Mr. GREEN (Champaign). That matter was thoroughly considered by the committee, and we found out that the county boards are the deciding authorities as to whether or not grain shall be inspected under the supervision of the State, and in these smaller towns the matter is so insignificant that it would add an expense and burden upon the people for which there is no demand. I hope you will vote down the motion of the gentleman from St. Clair and leave this matter as it is.

Mr. LINDLY (Bond). Probably an explanation of the situation in East St. Louis might be in order here to show you the necessity of this amendment. When I was chairman of the Railroad and Warehouse Commission we had under our jurisdiction the inspection of grain. St. Louis was inspecting grain at East St. Louis and it did not correspond with the Illinois inspection. We went before the legislature to create an act giving the Railroad and Warehouse Commission jurisdiction over the inspection of grain at East St. Louis. At that time Peoria had inspection of its own and they joined with St. Louis in opposing such inspection, and as a compromise matter, to secure the inspection by the State in East St. Louis, we agreed to the proposition that the county board should determine whether inspection should be in the county or not, and having secured the consent of the support of St. Clair county, the law was passed. Now it comes up whether the board of St. Clair county could abolish the inspection of grain at East St. Louis. I think they can, and I think it is very essential that the State should have inspection of grain in East St. Louis. I see no harm that can come from this amendment, and a great deal of good can result from it.

Mr. CARLSTROM (Mercer). I desire to offer a substitute amendment to Section 2, providing for the striking out of the words in lines 2 and 3, "situated in any town of not less than 100,000 inhabitants," and substituting in lieu thereof, "issuing warehouse receipts."

I just want to say in explanation of that, Mr. Chairman and gentlemen, that the basis as to whether a warehouse should come under the provision of the law should not be determined upon the population of the city in which it happens to be located, but upon the character of the business it does. If it receives grain for storage it ought to come under the supervision of the law.

CHAIRMAN DUNLAP. I think that this Convention wants as much information as it can have to decide this question, and it is of enough importance for the chair to give whatever information he has in regard to this. The reason that the committee did not favor the amendment of the gentleman from Mercer is because of the provision in Section 2, providing that all such warehouses shall make weekly statements under oath before some officer designated by law—

Mr. HAMIL (Cook). You are reading from the proposal that has been done away with. You are not reading from the present Constitution.

CHAIRMAN DUNLAP. It is substantially the same. You are not imposing this restriction upon these cities where there is no population and where there is no inspection of grain, because their grain is not graded and they cannot report those grades of grain and post them, as required of cities of more than 100,000 population. There is nothing here provided that will prevent the legislature from enacting laws that will provide for the inspection of this grain in cities of less than 100,000 population, and when they do that, they can require that these grades be posted, if they think best. I think it will be a mistake to saddle this burden upon the smaller towns in the State and no good will be accomplished thereby.

Mr. RINAKER (Macoupin). I think the statement just made by the chair is a very convincing argument why this particular statement should go out and why we should not continue to eliminate until we have nothing left in it but possibly the first and seventh sections.

The business of warehousing and storing not only grain but all commodities is becoming more and more important, and if you retain this provision of 100,000 population or 50,000 population, the cold storage warehouses and other warehouses can be located outside of those cities, and it

is possible to create large monopolies of that kind that are by the Constitution exempted from control.

CHAIRMAN DUNLAP. Will the senator yield for a moment? Such warehouses are controlled under the Public Utilities law.

Mr. RINAKER (Macoupin). That is a demonstration of the absolute un wisdom of the whole article. We ought not to have restrictions in here, if I understand the Constitution at all.

Mr. HAMILL (Cook). I do not believe the gentleman has made himself understood. If I understand correctly, you mean that the limitation to cities of 100,000 precludes the operation of the general law in cities of less than that number?

Mr. RINAKER (Macoupin). That is exactly what I mean.

Mr. HAMILL (Cook). As a lawyer I am heartily in accord with his conclusion.

Mr. RINAKER (Macoupin). If you have these restriction in here it is possible for these warehouses to be located outside of large cities and then you have by the Constitution prohibited the legislature from acting upon them, and when you say that the legislature is now regulating these things through the Public Utilities Act, you admit that there is no necessity for any constitutional provision on the subject.

Mr. HAMILL (Cook). And there is grave doubt about the constitutionality of the power of the Utilities Commission to regulate. That may be very easily set aside by a decision. It seems to me that it should be, and I hope that the amendment will be defeated and the class business be defeated and eliminated, because it is a matter that can be handled without constitutional authority, and whatever you put in the Constitution is certainly a restriction.

Mr. CRUDEN (Cook). I move that the committee rise and report progress.

Mr. SHANAHAN (Cook). I move that the committee take a recess until four o'clock.

Mr. CRUDEN (Cook). That is perfectly satisfactory to me.

CHAIRMAN DUNLAP. I will declare the other motion lost.

Motion prevailed and the committee took a recess to four o'clock p. m. of the same day.

4 O'CLOCK P. M.

The Committee of the Whole met pursuant to recess.

(Chairman Dunlap presiding.)

CHAIRMAN DUNLAP. The Committee of the Whole will please be in order.

Mr. CARLSTROM (Mercer). During the intermission, I had the pleasure of talking with several officials of the State along the line of the proposed action in the proposal now before us, and one of the men said it was inadvisable to have the article in the Constitution as it is now drawn, and he suggests they change in the amendment for the purpose of overcoming his objection, and I would like to offer it as a substitute for the amendment which I offered this morning. Offering as a substitute for all pending amendments the following:

"Amend Section 2 by striking out the word "one" in line three and substituting therefor the word "two," and by adding after the word "inhabitants" in said line three, the words "and in all cities and villages where either state or federal grain inspection is or may hereafter be provided or shall."

This was suggested as the only feasible basis on which the provisions of the article could be made to apply to all warehouses and all cities and villages.

CHAIRMAN DUNLAP. The gentleman from Mercer desires to withdraw the amendment offered this morning and substitute the amendment read.

Mr. HAMILL (Cook). Will the clerk read the article as amended? (Article read.)

Mr. HULL (Cook). I do not understand the purpose of the amendment.

Mr. CARLSTROM (Mercer). The purpose of the amendment is, when the amendment was offered by the gentleman from St. Clair this morning, reducing the number from 100,000 to 50,000, to apply to certain cities in the State, it occurred to me to apply it to all warehouses, and that it would be impractical to make weekly statements under oath and keep the same posted in the offices of the warehouses, unless there was an inspection provided for, and there are but few cities in the State, East St. Louis, Kankakee and Chicago, where there is a grain inspection provided for.

Mr. HULL (Cook). Who provides for the inspection of grain in those cities?

Mr. CARLSTROM (Mercer). The State and Federal Government are taking them over now.

Mr. HULL (Cook). Doesn't the State provide it?

Mr. CARLSTROM (Mercer). Yes.

Mr. HULL (Cook). Why cannot we continue to provide it in other places?

Mr. CARLSTROM (Mercer). This provides the warehouse man shall come under the State and Federal Government wherever the State or Federal Government has inspection, that is the effect of the amendment, so it applies to all warehouses in the State where there is an inspection of grain afforded.

Mr. HULL (Cook). Doesn't the limit of 200,000 take a lot of cities out from under it?

Mr. CARLSTROM (Mercer). No, I don't know what the particular object of that was, except the fact the only place where this situation is now controlling and applied is in the City of Chicago.

Mr. HULL (Cook). That simply would make it incumbent on the State to provide grain inspection?

Mr. CARLSTROM (Mercer). Yes.

Mr. HULL (Cook). Why shouldn't it be incumbent to provide grain inspection for every city, if it is to be covered by a Constitution provision?

Mr. CARLSTROM (Mercer). I think it should; I think you are right.

Mr. HULL (Cook). Then why change the figures?

Mr. CARLSTROM (Mercer). Under the old provision of the Constitution as it stands there is no provision requiring this, nor any suggestion of that character, simply applying to places of 100,000 and over.

Mr. HAMILL (Cook). If I understand the proposition, the proposed amendment correctly, we would write into our Constitution a requirement that elevators that are located in places where there is federal grain inspection shall be subject to regulation, which everywhere else they would not be subjected to. There may be some federal grain inspectors in this city today or this month, and in another city the next month, and we will be in the position of having the fundamental law of the State of Illinois changed from month to month or day to day by some departmental order of the government in Washington. I am opposed to having the fundamental law of the State of Illinois governed by orders issued by some other government.

Mr. CARLSTROM (Mercer). What meaning do you give to the word "establishment"?

Mr. HAMILL (Cook). The word "establishment" as used in what connection?

Mr. CARLSTROM (Mercer). Whether either federal or State grain inspection is provided or established.

Mr. HAMILL (Cook). Established?

Mr. CARLSTROM (Mercer). Yes.

Mr. HAMILL (Cook). It might mean established one day and disestablished the next.

Mr. CARLSTROM (Mercer). That is your conception of the stability of the word "established"?

Mr. HAMILL (Cook). Yes.

Mr. CARLSTROM (Mercer). Very well.

Mr. HAMILL (Cook). Who provides grain inspection under the federal government? It is not a matter of statutory regulation issuing from any legislation, but it is a matter existing under a regulation. The federal government has no power to make grain inspection except under war legislation.

Mr. CARLSTROM (Mercer). I do not understand it is limited to war regulation. I am personally not vitally concerned in this thing. I will say to the gentleman from Cook, following the very argument the gentleman has made, why should it be limited to cities of 100,000? Why shouldn't it be extended if it is a protective, efficient and acceptable provision, why shouldn't it apply where circumstances enable the warehouse to buy small elevators to protect the persons dealing in grain in all cities? That is the object I had in mind.

Mr. FIFER (McLean). It seems to me there is some misapprehension as to the effect of this Constitutional provision affecting warehouses. It was never contended, as I understand, that when the Constitution makers of 1870 placed this provision in the fundamental law of the State that they intended thereby to take away from the General Assembly the power to pass laws relating to cities with a population of a less number of people, but left the legislature free to regulate one man who was running an elevator in a village.

Now, this provision in the Constitution has been attacked on the floor of this house simply because it was legislation and did not come within the limits of a constitutional provision. That is very nearly true, but there are certain questions that the Constitutional Conventions have not left to the discretion of the legislative assemblies. These are questions which affect the whole people and affect them very vitally, such as the banking business.

You will find purely legislative provisions in the Banking Act; it affects the liability of every stockholder, they are provisions which are purely legislative. And so, with railroads. And then we come to warehouses, which is of equal importance, if not more so, than railroading and banking. Constitutional Conventions have hesitated and refused to leave such questions to the discretion of the legislative bodies. The interests are too vital, they are too far-reaching in their consequences. It is very well understood that the grain interest of Illinois is perhaps the most vital interest in the entire State. It affects not only the grain carrier and the great grain shipper, and producer, but it affects also the consumer of grain, and as far as the Constitution of 1870 was willing to go on these lines was to say that in all cities of 100,000 inhabitants it should be sold in a certain way and certain safeguards must be thrown around it, in not only the shipment but the handling of the grain in the elevator. They left the inconsequential matters to the General Assembly, and if they wished to carry the principle further they had a right to do so under the Constitution of 1870. But they have refused to throw this matter entirely into the hands of the Legislative Assembly as they have the banking business and the railroad business.

Now, it is no use to mince matters. This provision was leveled at the situation in the great City of Chicago. Nearly all of the grain that is raised in the State of Illinois, or the bulk of it, passes through the great elevators in the City of Chicago. They issue elevator receipts for the grain that is received there, and I am told by the members of the committee having this matter in charge, that the only persons who were before that committee objecting to the present situation were the warehousemen and the elevator men in the great city by the lake, while the grain producers and the elevator men in the small cities scattered throughout Illinois were demanding it stay as it is.

Now, you just consider for a moment all of the grain going to Chicago and being placed in the elevators, with no safeguards, no nothing, to do with as they please. Wouldn't that be the wideopen door to the worst kind of skullduggery that ever appeared in the State of Illinois. And it was the

purpose of the Constitution of 1870 to go so far and put into the fundamental law of the State that the rights of the people and the rights of the consumer and the grain grower and the grain shipper should be protected, and the legislature is perfectly free to go just as much further as they please. We need not, it is true, place anything in the Constitution, but in my judgment it would be unwise and unsafe to do so.

The men on the Board of Trade demand, I am told, that the Constitution be left as it is, because they could not trade unless there was some sort of inspection, some sort of safeguard thrown around the grain business in Chicago whereby they would be given some guarantee that these grain receipts would stand for what they mean.

Now, there are some slight amendments to this article of the Constitution on warehouses that were made by the committee. For myself, in my judgment, we can do nothing better to re-enact the Constitution with this article just as it stands. Some don't think so. The gentleman from Macoupin says if we will restrict the General Assembly when we legislate for a city of 100,000 that we exclude legislation for all other cities. Nothing of the kind. Even if there was not a saving clause in the article, it provides against that very contingency and guarantees to the grain carrier and the grain shipper the rights granted by the common law and says that this article shall not be so construed as to take away any of the rights of the citizen, but shall be liberally construed to protect his interest.

Mr. GREEN (Champaign). May I ask you a question, Governor?

Mr. FIFER (McLean). Yes.

Mr. GREEN (Champaign). Where, what language is there in the article that says it may do that, that the legislature may have additional authority to that conferred?

Mr. FIFER (McLean). No, the article itself.

Mr. GREEN (Champaign). You say it has. It is not in the section, but is in the article?

Mr. FIFER (McLean). It is legislation, it is true.

Mr. GREEN (Champaign). There is nothing in the article which gives the legislature any power?

Mr. FIFER (McLean). In Section 6 of the article.

Mr. GREEN (Champaign). There is nothing in there. That statement was not correct then, that the article in itself, in its language, does give the legislature the power?

Mr. FIFER (McLean). I say to you gentlemen this: If we wipe out this article on warehouses, and say nothing about it, wipe it off the slate—

Mr. GREEN (Champaign). The legislature would have full power?

Mr. FIFER (McLean). The next legislature could enact as a legislative enactment anything in line with its fundamental power.

Mr. GREEN (Champaign). Surely.

Mr. FIFER (McLean). It would be entirely within their power, because in the first part of the Constitution we have granted to them all of the legislative power that the people themselves have.

Mr. GREEN (Champaign). My question was, you said there was express language in the article giving the legislature power to go further than the article itself went. There is no such language there.

Mr. FIFER (McLean). In another section.

Mr. GREEN (Champaign). What is there in that article that protects the consumer? What language in the article protects the consumer, or where is there anything in that article giving the legislature direction to protect the consumer?

Mr. FIFER (McLean). There is no express language, but when you rob the grain grower and shipper, you rob the consumer and raise to him the price of the article he consumes.

Mr. GREEN (Champaign). Would the striking out of this in the Constitution rob the General Assembly of all its power in any way to control the purchaser, consumer and grower?

Mr. FIFER (McLean). The legislature has the power now to legislate on that question, but the Constitution makers of 1870 were not willing to confide entirely that power apparently to them or leave it to their discretion as to whether they would exercise it or not, and therefore they went ahead and exercised it themselves.

Mr. GREEN (Champaign). Well, they never exercised any power until this article was put in the Constitution on this subject.

Mr. FIFER (McLean). Not as I remember; I could not say.

Mr. GREEN (Champaign). Do you say that the grain brokers dealing on the Board of Trade came up before the committee requesting that this remain in the Constitution?

Mr. FIFER (McLean). I was so informed. I am not a member of the committee and was never before the committee.

Mr. GREEN (Champaign). Is that an argument why it should be retained, because the speculators on the Board of Trade want it in?

Mr. FIFER (McLean). Well, I supposed we met here to meet the demands of the people, and when there was a demand for a change in the Constitution we would heed it, and I was simply pointing out where the demand came from. It came from the warehouses of Chicago, while down State the growers of the grain and the country elevator men and the men upon the Board of Trade were all opposed to any change of this fundamental law, and I was pointing out where the demand came from.

Mr. GREEN (Champaign). You say there was a demand from down State to this committee to retain it?

Mr. FIFER (McLean). I was told so by a member of the committee.

Mr. GREEN (Champaign). That is the first I heard of that.

Mr. FIFER (McLean). I was so informed. I could give you his name if I so desired.

My own judgment is that this provision of the Constitution ought to stand. Of course it is in a sense legislative, but the difference between what is legislative and which is constitutional is so blended and mingled that it is difficult at times to tell where the one leaves off and the other begins. It is like the day shading off into the night. But this is one of the questions, with two others, banking and railroads, that the Convention of 1870 was not willing to leave entirely to the legislative discretion. It don't take away from them the rights that they already have, but they say, "This far we will go for the protection of the people, and you gentlemen of the legislature can travel the rest of the distance if you wish, but in order to safeguard the rights of the people we will place this provision in the fundamental law of the State." And there I believe it should remain.

Mr. HAMILL (Cook). I think, perhaps, gentlemen, there is a misapprehension in regard to this article. I have no desire to do away with the regulation of warehouses by law; on the contrary, I think experience has demonstrated that regulation of public warehouses by law is necessary.

It has been intimated that those of us who oppose retaining this Article 13 are only advocating the cause of the large warehouses in Chicago, and that we are opposed to the rights of the people.

Let me say I think the last speaker is quite correct when he says that he is informed that the Board of Trade of Chicago advocates the retention of this Article. May I say, by way of personal explanation, that my father was a member of the Board of Trade, all my boyhood was spent within the shadow of the Board of Trade, my associations have been largely, in my young manhood, with board of trade men and my sympathies are not now opposed to them, although I know a good many of yours are. My purpose in striking this out is, first, insofar as it lays down a positive policy it is purely legislative; and secondly, so far as it tells the legislature what it shall do, it is susceptible of a construction of putting a limitation on the power of the General Assembly.

Now, I wish to discuss the second point first. The learned and distinguished speaker who has just taken his seat says it is nothing of the sort. I think the point is debatable. Personally I am inclined to the view that it does put a limitation upon the power of the General Assembly, as was argued this morning by the delegate from Macoupin. In the case of Scott against Flowers, a decision in the Supreme Court of Nebraska reported in 61 Nebraska, page 621, it was held that a statute of the General Assembly of the State of Nebraska which established a school for girls with a limitation on the age of the girls that might go into it, above sixteen years, was unconstitutional because the Constitution of Nebraska authorized the establishment of schools for girls under sixteen. There was no express inhibition on establishing schools for girls over sixteen, but the Supreme Court of Nebraska said the expression of one thing is the denial of another. If there had been no clause in the Constitution at all, the General Assembly would have had full power and might have established schools for girls of any age, but when the Constitution said they may establish a school for girls under sixteen years, that is a denial of the power to establish schools for girls over sixteen.

Our own Supreme Court, in the case of People against Hutchinson, reported in 172 Illinois, at page 486, had under consideration the power of the General Assembly to pass a bill amending the apportionment act of 1893, and it was argued that the direction to the General Assembly to pass an apportionment act once every ten years was in the affirmative, and did not deny to the General Assembly the power to pass other apportionment acts. Our Supreme Court said, I read from page 497:

"There is no express denial in the Constitution of the right to exercise this power whenever the legislature may see fit, and it is therefore argued for the defendant that it may be exercised at any time and that the legislature may make an apportionment whenever it chooses. This does not follow however, and it is not essential in order that the Constitution may operate as a prohibition that it shall contain a specific provision that apportionments shall not be made otherwise than according to its provisions. The general principles governing the constructions of Constitutions are the same as those that apply to statutes. The use of negative words would be conclusive of an intent to impose a limitation, and they are used in some instances in the Constitution, but their absence is not conclusive of the opposite. Where there are provisions inserted by the people as to the time when a power shall be exercised, there is at least a strong presumption that they designed it should be exercised at that time and in the designated mode only, and such provisions must be regarded as limitations upon the power." And this notwithstanding the fact that in two or three other places in our Constitution of 1870, when the Constitution had directed a thing to be done by the General Assembly, it directed it should be done then and in no other way or no other time, expressly negating any other time or mode.

The Supreme Court in the Hutchinson case held that the absence of these negative words did not affect it, but the positive injunction denying the power to do it at any other time did. In the case of People against *Deutsche Gemeinde* in the 249th Ill., 532, it was held that the enumeration of properties that might be exempt from taxation was in itself a denial to the General Assembly of the power to exempt any other property. In the People's Loan & Homestead Association against Keith, 153 Illinois 609, our Supreme Court said, "In the construction of statutes it is a well understood rule that the enumeration of certain specified things which may be exempted excludes all others not therein mentioned. Section 3 is therefore a limitation on the power of the legislature. The enumeration in that section of certain specified properties which may be exempted is a clear limitation upon the power of the Legislature to exempt any other property."

In the case of the Chicago & Alton Railroad against the People, 67 Ill., page 11, the Supreme Court held unconstitutional a statute which forbade discrimination in rates by the railroad, because of that clause in our Constitution which forbid unjust discrimination. The Supreme Court held the

prohibition forbade the General Assembly to forbid any discrimination not unjust; therefore a statute that forbade discrimination generally was unconstitutional.

So I say to you gentlemen, it is at least arguable, I need not go farther than that, when we say in the Constitution that warehouses located in cities of not less than 200,000 population shall be subject to certain regulations, we have denied to the General Assembly the power to regulate, in some way at least, elevators in the smaller towns. So much for the legal point that the gentleman has so well argued.

Now, it was argued this morning, and it is argued again by the distinguished gentleman from McLean, that if it be mere legislation, it is good legislation and therefore should be retained. Well, I can see no more reason for retaining good legislation in the Constitution than I can see for failing to insert in the Constitution good legislation which is not there. The statute book, my friends, has a few hundred pages, and it is full of good legislation. There are hundreds of provisions in the statute book which are good, which no man in this room would have repealed. There is the provision that the husband shall not be liable for the debts of his wife before they were married. Does anybody want to change that? If we don't put it into the Constitution, the General Assembly can change it. Shall we permit the General Assembly to change that salutary law which has been in effect in this State for many decades? We ought not leave it to the General Assembly.

There is a whole criminal code forbidding all sorts of crimes. Shall we permit the General Assembly to forbid that? Of course not, let us keep the whole criminal code in the Constitution so that we will be secure against crime. The argument is just as good for one as the other.

CHAIRMAN DUNLAP. The question is raised as to whether the provisions in this Article 2 limit the authority along the lines under discussion. Now, the committee is of the opinion that that was wholly covered in Section 6, and I would like to have the clerk read Section 6.

(Section 6 read.)

Mr. GREEN (Champaign). You observe that applies only remedies to these things. Maybe the crimes or offenses in the first place—

CHAIRMAN DUNLAP. Will the gentleman pardon me for saying that they will give full effect to this article?

Mr. GREEN (Champaign). I will come to that in a minute. The enumeration of the remedies is along the line of the argument of the gentleman from Cook County who just spoke.

"And the enumeration of the remedies herein named shall not be construed to deny to the General Assembly the power to prescribe by law such other and further remedies as may be found expedient, or to deprive any person of existing common law remedies."

Mr. HAMILL (Cook). It makes it worse than if it were not there.

Mr. GREEN (Champaign). Surely. They are limited there. You may not want to prescribe the remedy, you may want to announce a rule of substantive law. Now, having expressly limited the power of the legislature to prescribing additional or further remedies, to my mind you have cut off the power of the General Assembly to prescribe any new or additional rule of substantive law. Now, that is with reference to the literal construction of it, and I have sat in my seat and read it over carefully, trying to reach the conclusion that the committee reached about it. It does not pertain to that question, that it shall be liberally construed so as to protect the consumers. Not at all; it shall have no liberal construction so as to authorize legislation to protect the consumer, but the liberal construction by positive language in Section 6 limits the legislature to the liberal construction to protect the producer and the shipper, and of course they ought to be protected; nobody denies that. All of this argument about it being wise and salutary is admitted and there ought to be more legislation and

there ought to be nothing to trammel the legislature in passing laws, substantive laws defining the rights and subjections as well as the remedies, legislation prescribing laws which would be more than a liberal construction of this article in the interest of the shippers and producers, and they ought to be allowed to pass salutary laws to protect consumers or dealers, consignees and others interested in the subject matter.

The very presence of that language is the thing that points to the argument that it may be a limitation upon the power of the General Assembly.

Now, we seem to be determined to be misinterpreted. I don't think anybody who has talked in favor of eliminating this from the Constitution wants to be for a minute understood as wanting to repeal any legislation that is now upon the statute books, nor limit the legislature in any way from enacting further legislation with reference to the storage of grain, food stuffs or any other things that are stored, but what we are interested in having before us is the constructions which have been placed on this Constitution and the problems of the present day.

Let us be as wise as were the men that wrote this in the Constitution to meet a situation of their day, which our legislature has met and passed statutes on, carrying out the purpose which was then intended. But also let us go further and give the legislature power in perfecting this policy which was planted in the State of Illinois in 1870 and has been proven so far as possible by legislation since. Give them the power to go and adopt that character of legislation that will extend the control, and not do anything that will operate to prevent or cripple them in doing it. Now we cannot settle what the Supreme Court might say would be the construction given the Constitution with reference to the salutary statutes passed for the protection of consumers and consignees or Board of Trade men or warehousemen themselves, if you please, or anybody else interested in it. We cannot tell how they would construe it, but we all agree that the statute named protects the shipper and the producer and goes as far as the Constitution allows, and the proposition for which I argue is that we allow the legislature to go further if the conditions require it.

Mr. GEE (Lawrence). I dislike to question the interpretation put on Section 6 by the gentleman who has just spoken, but I think he is taking too narrow a view of it, if he means by the remedies that would be as far as they could go. The legislature is given full power under Section 6 and they are not restricted.

So far as I have been able to grasp the situation here today, no one questions the correctness of the position of the Constitution provisions in Article 13. They are needed, and it is conceded that they are needed to be in the Constitution by some restrictions, and in the language of the Supreme Court, if ample power was left without any constitutional provisions to curb and prevent all of the things that might occur, we don't know what would happen if we did not have this kind of a law. It is nothing but what is essential. It is enough to say, and so far as I know, I think I can say it without contradiction, that previous to these constitutional enactments we did not have anything in the way of legislative enactment to meet the conditions named by these constitutional provisions. The question of when the shipper or producer puts his grain in the public warehouse that he should have a receipt, signed by the warehouseman as to the amount of grain there, and the character of it, so if he wanted to negotiate that for the time being to raise funds necessary in his business affairs, that later on the man who loans him the money could be guaranteed that that receipt spoke the truth and the party had it, or could know from the requirement of the truth of the statement to be made, everyone would know that there was grain in the warehouse, there should be some constitutional or legislative enactment to make certain that state of affairs.

Now, we have got along fifty years on the constitutional enactment. It has some judicial construction, but nothing that ever tended to show that it was unjust and not needed. Now we are up against trying to formulate a new Constitution, and we are told all of the acts as passed must be abro-

gated because the legislature can do it without a Constitution. Now, if the legislature did not do it without a constitution previously, what guarantee have you to us to say if we eliminate out of the Constitution this proposal we will get what we need, and the consensus of opinion is that we do need something of this kind, and not have it left entirely to the legislature. But as I see it, the men of fifty years ago saw the need of the hour and they saw that the legislature before that time had not met the issue and that then they would have to meet it, as we meet it now, because it was needed.

And then they put in Section 6, which I think is far-reaching and not restrictive in itself, not at all, but rather a commanding voice to the effect that the legislature, as exigencies arise, and the progress of time demands, a direction that new legislation is enacted.

I want to read that again:

"And the enumeration of the remedies herein named shall not be construed to deny to the General Assembly the power to prescribe by law such other and further remedies as may be found expedient, or to deprive any person of existing common law remedies."

Call it cures if you please, give it any name you please, but it means a thing which is anterior to Section 5, comprising the receipts and statements; those are the things which have been enumerated, not whether you could sue a man in an action of assumpsit or tort. We have a remedy for that. It is a question of the Constitution. What does the Constitution provide for, that is what they mean by remedies. Let me read that again:

"And the enumeration of the remedies herein named shall not be construed to deny to the General Assembly the power to prescribe by law such other and further remedies as may be found expedient, or to deprive any person of existing common law remedies."

To deny the General Assembly the authority of this enlarging view for fear that someone should receive only the benefits of the Constitution as it is now, ties the future legislatures hand and body. The Constitution itself provides it shall not do that. No court has construed it, and no delegate here can successfully construe it, as I see it, to mean restrictive, but rather it is enlarging.

"Such other and further remedies." That is, other and further remedies would be the same kind of authority in the interior part, the five preceding sections. What is delegated there by the Constitution if they want to enlarge it and prescribe it by law as the exigencies of time demand? That they have the right to do it and they are not restricted. I don't think, gentlemen, seriously, we are going to harm the State of Illinois.

Mr. GREEN (Champaign). Suppose the General Assembly wanted to pass a law relative to profiteers that affected warehouses, now, barring Section 6, which relates to producer and consumer, do you think there would be any debatable question about the power of the General Assembly to subject warehouses to penal statutes in aid of preventing profiteering?

Mr. GEE (Lawrence). I do not think, if they were profiteering, but what the General Assembly would have the power to do it.

Mr. GREEN (Champaign). Would that be a remedy which appears here, and if so a remedy for what, in the face of the article?

Mr. GEE (Lawrence). I don't know whether I grasp what you mean by remedy; remedy would be a cure for the ailment, a preventive. That is what this Constitution gives the legislature power at any time, to make a remedy and prevent infringement on the rights of the people at any time.

Mr. KERRICK (McLean). It seems to me very clear that the construction sought to be put on Section 6 by the gentleman from Champaign is not contemplated. Although Section 6 has been read several times, I will read it again.

(Section 6 read.)

Let it be admitted for the sake of argument that the matter is not entirely clear as to what is meant by the word "remedy," but a separate section distinct is the last clause of this Section 6. Now, what is meant by "remedy?" That is the key to the construction of this entire article. What is meant by remedies in every other preceding section, as will clearly

appear by referring to them; this preamble statute or preamble provision of the Constitution prescribes certain specific remedies in the five preceding sections, and one of them is the first section.

"All elevators or storehouses where grain or other property is stored for the public for a compensation, whether the property stored be kept separate or not, are declared to be public warehouses."

That is the beginning of the control that is taken by this provision of the Constitution over warehouses. They were not so considered before. They were private institutions.

Section 2 goes on and prescribes a remedy, one kind of a remedy as to the posting of notices of what grain is in the warehouse and the kind, and the amount and so forth. That is one remedy.

The third section, that is another remedy against existing evils that were apparent to the makers of this article to the Constitution.

Number four, that is a another remedy that it was clear to them should be applied at that time.

Number five, that is a remedy.

Now, then, at the conclusion of this Section 6, this language follows and applies to nothing and can apply to nothing except all that has preceded it in the specifically provided remedies. And the enumeration of one, two, three, four and five of the remedies herein named in these sections one, two, three, four and five, they are the remedies, and they are not prescribing some form of action that may be brought if somebody is injured by the violation of some law; they are remedies which the public needs and which have been prescribed specifically in these five sections. That is what is alluded to and referred to and described as remedies in this last clause in Section 6, and the enumeration of the remedies herein named was not to be construed to deny to the General Assembly the power to prescribe by law such other and further remedies as may be needed to meet changes in conditions, etc. Nothing to prevent the legislature from adding forty sections or any other number, going to the protection of the people as a whole and to the proper conduct of these warehouses and railroads.

Mr. GREEN (Champaign). If there is a single remedy—these are remedies, granting that for the purpose of the argument—is there a single remedy for the consumer in the whole document?

Mr. KERRICK (McLean). The remedy is that it is their grain that is consumed—

Mr. GREEN (Champaign). Isn't it limited to the shipper and the producer?

Mr. KERRICK (McLean). Not at all; it may happen up to a certain point, but then they start from their expression concerning the consumer, producer or shipper, as far as the general provision and the enumeration of the remedies is concerned, that is all that has gone before, everything, whether it applies to the producer and the consumer or anybody else or not, every remedy, the enumeration of these remedies, no matter who is described or related, this is the final windup of the whole thing, saying no matter what we said about things heretofore with reference to warehouses you can go ahead as occasion may require and necessity indicates and in addition to these enumerated remedies herein named proceed as you see fit, and it shall not be construed to deny to the General Assembly the power to prescribe by law such other and further remedies as may be found to be expedient for what, if anything, they need pass in connection with warehouses. And the makers of the Constitution were peculiarly careful after they had enumerated and concluded their enumeration of remedies, to add nothing in the way of a remedy or apparent remedy to put in as a concluding clause the windup of the whole subject, no matter how many remedies or what the character of the remedy may be with that safeguard your hands are not tied, to provide something or different remedies, as you please, hereafter by legislation.

Mr. TRAEGER (Cook). I have heard so much, sitting here, about the consumer, why not add in Section 7, "The General Assembly shall pass laws for the inspection of grain for the protection of the producers, shippers and receivers of grain," and why not add here, "for the protection of the consumer?"

Mr. CORCORAN (Cook). A point of order. Another section is under discussion now, let us wait until we get into that section.

CHAIRMAN DUNLAP. The point of order is well taken.

Mr. TRAUTMANN (St. Clair). As the maker of the first amendment, which will be wiped out if this section is adopted, I would like to say a word, with the permission of the gentleman from Adams.

I made the motion that the words and figures, 100,000 inhabitants, be changed to 50,000; that is my amendment, so it would apply to four other cities in the State at the present time, and others as they became larger.

The gentleman from Mercer offers an amendment to raise the number of inhabitants from 100,000 to 200,000, a direct opposite to my motion, and to apply to all elevators in the State of Illinois wherever Federal or State inspection is established. Of course if the substitute prevails, as far as the city of East St. Louis is concerned, it will make no difference, because the State inspection has already been established, and if I am not mistaken, also the Federal, but it is a question for the delegates whether or not if this section 2 is adopted, they want it to apply to every elevator in the State of Illinois where there is or will be established State and Federal inspection, or whether they want it to apply to elevators in cities of over 50,000 inhabitants. That is the difference between the two proposed amendments.

CHAIRMAN DUNLAP. In the first place, we will vote on the motion of the gentleman from Adams that the debate be closed.

(Motion adopted.)

CHAIRMAN DUNLAP. The clerk will read the substitute offered by the gentleman from Mercer.

(The substitute was read.)

CHAIRMAN DUNLAP. The question is on the adoption of the substitute.

(Lost.)

CHAIRMAN DUNLAP. The question then reverts to the motion of the gentleman from St. Clair, which the clerk will read.

(The motion was read.)

(Motion lost.)

CHAIRMAN DUNLAP. The question reverts to the adoption of Section 2.

(Adopted.)

CHAIRMAN DUNLAP. The question now is on the adoption of Section 3.

(Adopted.)

CHAIRMAN DUNLAP. The question now is on the adoption of Section 4. Any debate on the adoption of Section 4?

(Adopted.)

CHAIRMAN DUNLAP. The question now is on the adoption of Section 5.

(Adopted.)

CHAIRMAN DUNLAP. The question now is on the adoption of Section 6.

Mr. GREEN (Champaign). I wish to offer an amendment to Section 6. Striking out the word "and" in line 5 between words "producers and shippers" and insert after the word "shippers" the words "consumers and others interested".

(Amendment adopted.)

Mr. GILBERT (Jefferson). I also offer an amendment to Section 6 and move its adoption.

Insert the words "powers and" in line 6 before the word "remedies".

(Amendment lost.)

Mr. TRAUTMANN (St. Clair). I offer the following amendment as a substitute for Section 6.

The General Assembly may pass laws for the inspection of grain and for the protection of producers, shippers, receivers and consumers of grain and produce.

Mr. DEYOUNG (Cook). If those words were omitted, as you propose to amend it, would it make any difference?

Mr. TRAUTMANN (St. Clair). No; not in the least.

Mr. HAMILL (Cook). Let us not change the word "shall" to "may"; you are hurting your Constitution by doing it. The word "shall" has a meaning, and the word "may" has no meaning. Do not let us write ourselves down as not understanding the use of the English language in its simplest form. The section with the word "may" means nothing, and with the word "shall" does mean something. Now, I am not talking about substance; I have been beaten on the substance.

Mr. TRAUTMANN (St. Clair). Let us put the word "may" in it, that they may do it if it is necessary, and don't have to do it if it is not necessary. I ask that the amendment be considered and we have a separate vote on the change of the word "may" to "shall."

Mr. HAMILL (Cook). I have no objection to that.

CHAIRMAN DUNLAP. The question then is on the part of the motion changing the word "shall" as in the present section, to the word "may."

(Lost.)

CHAIRMAN DUNLAP. The question now is on the last part of the motion as explained by the gentleman from St. Clair; those who favor the adoption of the motion as made will say "aye."

(Amendment adopted.)

Mr. DAWES (Cook). Reading the language as it now stands, I am uncertain whether such language may not be construed that the legislature may or shall not pass laws for the inspection of produce. Therefore I would like to propose as an amendment that the General Assembly shall pass laws for the inspection of grain and produce, or in other words in the second line to insert after the word "grain" "and produce."

CHAIRMAN DUNLAP. I will say to the gentleman from Cook that you are placing quite an additional expense on the State when you undertake to inspect produce of various kinds in the market.

Mr. GREEN (Champaign). With reference to the matter of expense, aren't we by the adoption of the whole article saddling a pretty heavy expense on the State, regardless of the fact that the Federal Government may give us complete relief from all things which this article covers?

(Amendment adopted.)

Mr. TRAEGER (Cook). I move the adoption of section 7 as amended. (Section 7 adopted.)

Mr. TRAEGER (Cook). I move that article 13 be adopted.

(Article 13 adopted.)

Mr. TRAEGER (Cook). I move we rise and report progress.

(President Woodward resumed chair.)

THE PRESIDENT. The delegate from Champaign, Mr. Dunlap.

Mr. DUNLAP (Champaign). The Committee of the Whole having undertaken the consideration of article 13, recommends the adoption of the article with amendments.

(Report adopted.)

Mr. DUNLAP (Champaign). May we have a roll call?

Mr. SUTHERLAND (Cook). I simply arise to explain my vote. This section now is in such uncertain shape that I do not wish to give it my approval and I therefore vote no. I doubt the wisdom of the section anyway.

(Roll call.)

Mr. SHANAHAN (Cook). I desire unanimous consent to submit a report from the Committee on Judicial Department.

(Report placed on the general orders.)

Whereupon the Convention proceeded upon the order of reports of standing committees under the rules.

Mr. SHANAHAN (Cook). I move we adjourn until 9:00 o'clock tomorrow morning.

Motion prevailed and the Convention adjourned until Wednesday, June 23, 1920, at 9:00 o'clock a. m.

WEDNESDAY, JUNE 23, 1920.**9:00 o'Clock A. M.**

Convention convened pursuant to adjournment.

The President in the chair.

Prayer by the chaplain.

THE PRESIDENT. The Journal of Thursday, the 17th of June, 1920, has been placed on the desks of the delegates and is now subject to correction. There being no correction proposed, the Journal of Thursday, June 17th, 1920, will stand approved, and it is so ordered.

Whereupon the Convention proceeded upon the order of reports of standing committees, and first and second reading of proposals.

The Convention will now resolve itself into the Committee of the Whole, and Delegate Shanahan will take the chair.

CHAIRMAN SHANAHAN. The Committee of the Whole will be in order.

CHAIRMAN SHANAHAN. The question before the committee is Section 33, the amendment offered by the gentleman from Mercer for the gentleman from Hancock.

Mr. CARLSTROM (Mercer). I believe the people who are asking for a recognition of the pension system in the Constitution are asking but a reasonable thing; they are asking something which is rightly their due; they are asking that a portion of their salary or wages be deducted and contributed to a fund, a pension fund, that they shall have some right and interest in the fund thereby created that shall be recognized by law. I believe that is a fair request to make of the Convention. While I am personally not interested in pensions, the city in which I live is so small we do not have a pension system, it has been my endeavor to learn, if possible, the merits, on the basis of justice, of all the requests that have been or may be made of this Constitutional Convention, and, after such an investigation I believe that there is real merit in this request made to us to accept a provision such as in this substitute for Section 33. I do not claim authorship of this substitute, Mr. Chairman; as I stated yesterday, the gentleman from Hancock, Judge Mack, and several of us who voted against the original Section 33, because we feared the consequences and the effect of its language, attempted to prepare a substitute that would protect the rights of those seeking this protection and at the same time would save the danger of the State becoming unfair. This Section 33, as you will note, gives to the pensioner who has contributed to the fund a vested right in that fund. Now, it seems to me from a legal standpoint that there can be no question but what that is a broad protective expression, but we provide specifically that the State shall never become involved in any financial liability to maintain the character or amount of the sum thus created, except voluntarily. If any municipality or state contributes voluntarily to the fund to which contributions have come from the salaries of public employees, then the public employee thus contributing shall be held to have a vested right in the whole fund, and that, I think, is fair and just.

I am sorry that Judge Mack is not here this morning. I know that he would speak for this proposition, because he labored earnestly on it, and I talked with him and I know that to be true. I earnestly hope the substitute prepared by him and now offered will receive your favorable consideration.

Mr. HAMILL (Cook). May I ask the gentleman for information?

Mr. CARLSTROM (Mercer). If I can answer it, I shall be glad to.

Mr. HAMILL (Cook). Does it contemplate a pension fund for State employees?

Mr. CARLSTROM (Mercer). I take it that would be possible, yes.

Mr. HAMILL (Cook). If it contemplates a pension fund for State employees, and the State employee is to have a vested interest in it, are you not inconsistent in it when you say that the State shall not be required to maintain a fund?

Mr. CARLSTROM (Mercer). No.

Mr. HAMILL (Cook). How can the State employee have a vested interest in a fund unless the State is bound in law to maintain the fund?

Mr. CARLSTROM (Mercer). He has a vested interest in the fund which is created.

Mr. HAMILL (Cook). Which the State is bound to maintain.

Mr. CARLSTROM (Mercer). No, I don't so understand it.

Mr. HAMILL (Cook). Well, there can be no vested interest unless the supreme power is bound to maintain that interest.

Mr. CARLSTROM (Mercer). There can be a vested interest in the fund created without requiring the State or municipality to contribute further to it.

Mr. HAMILL (Cook). It is not a question of contribution. You say they do not have to maintain it. What do you mean by "maintain"?

Mr. CARLSTROM (Mercer). I mean this, if there was say a deficiency under this proposal, if we understand it clearly, the vested interest right would apply only to the fund created, and would not make the State or any of its municipalities liable.

Mr. HAMILL (Cook). You use the word "maintain" in place of "contribute?"

Mr. CARLSTROM (Mercer). Yes.

Mr. HAMILL (Cook). I see; maybe in that sense you are right, I don't know that.

Mr. DUPUY (Cook). I simply want to be clear on this point, whether or not the vested interest is to attach to what the public has contributed, as well as what the individual has contributed? In those cases where the individual never becomes a pensioner, but retires before the time he is entitled to the pension? The State contributes a certain amount, say, five dollars, enough to make up the amount plus what the individual pays, say two, for instance, making the total of seven. Now, does this vested interest attach to the seven dollars or only what the individual himself contributed in those cases where the individual never becomes a pensioner, but retires before he serves the time?

Mr. CARLSTROM (Mercer). My own personal position is it would.

Mr. DUPUY (Cook). I want to ask about the amendment.

Mr. CARLSTROM (Mercer). Our theory is the vested interest would apply not only to the amount contributed by the employee, but the proportion of the amount of the sum or sums contributed by the State or the municipality. We assume that it being a pension fund, the meaning of the word "pension" would depend on meeting the conditions on which the pension would obtain.

Mr. DUPUY (Cook). Isn't this the same difficulty that appeared to confront us when the question was up before?

Mr. CARLSTROM (Mercer). No.

Mr. DUPUY (Cook). Namely, attaching a vested interest to the whole fund, that contributed by the State and the public?

Mr. CARLSTROM (Mercer). I think it should. That was the question that was concerning me before. I felt any contribution made by the State should, with any contribution made by the employee, be for the protection of the employee, but my objection to the other proposal was it might be possible to compel the State to contribute to a fund sufficient to place this on an actuary basis. This, we think, does not require a state or any municipality to contribute beyond what it ought to do.

Mr. DUPUY (Cook). It would be true under this substitute; all that portion of the fund contributed by the State in case the individual never

becomes a pensioner could not be used, that portion of the fund represented by what the State contributed could not be used for the other pensioners?

Mr. CARLSTROM (Mercer). I do not so understand it, I do not think it is tied up in that way.

Mr. DUPUY (Cook). I think it must be so.

Mr. CARLSTROM (Mercer). I do not so understand it.

Mr. CUTTING (Cook). If I understood the teachers when they were here last on this proposition, they only asked to have a vested interest in the amount by them contributed, either by withdrawal of salary or otherwise, and that it was their sole purpose that the amount contributed by the State should be forfeited by the person who withdrew from the pension scheme before it matured, so the amount remaining would inure to the benefit of those who stayed to the end and enjoyed all the rights of the pensioner.

In this way it seemed to me if the amount contributed by the State and the individual are both to be subjected to the right of withdrawal, you will destroy the pension fund and leave nothing in effect to the persons who stay through to the end except their own contributions. Persons can withdraw at any time and take away their share without waiting for the maturity of the time that is arranged according to the pension scheme, and that particular thing was condemned by the committee of teachers the other day. They said that those who stayed to the end were entitled to the benefit of that fund, but those who were withdrawing prematurely should not be allowed to draw that part given by the State, but only that part which they themselves had given. I think that is what it ought to be.

Mr. MILLER (Cook). For the purpose of making the meaning absolutely clear, which it seems to me is not so now, I move the word "such" be substituted for the word "a." In other words, the point I would like to see made perfectly clear is the Constitution shall not itself create a vested interest in the fund, because if it does, a mistake is likely to be made. For instance, if the Constitution itself creates that interest, then a person withdrawing could assert an interest in the fund or a part of it or perhaps the whole of it, whereas, if it is left entirely to the legislature to say whether or not there shall be such interest, then the legislature may fix such interest in the fund as it sees fit, and may provide one withdrawing shall have no interest in the fund, whereas one who stays through to the end shall have a vested interest in the fund which the State cannot take away.

Mr. FIFER (McLean). I believe that this Convention will make a great mistake to place this provision in its fundamental law.

When this question was up some weeks ago, I made the statement that no Constitution of the states had a provision in relation to pensions, that it was true also of the Federal Constitution. I met Judge Hayes afterwards, in fact the same evening, and he told me I was entirely correct about it. So then if this provision goes into our fundamental law, it will be a new departure in the making of Constitutions in this country. I think the members are laboring under a misapprehension when they say it is necessary to have a constitutional provision of this kind in order to protect the pensioners.

The decision of the Supreme Court referred to, in support of this view says nothing of the kind. It simply says that the pensioners have no vested right, that the pension can be taken away and naturally by the lawmaking body, and that is undoubtedly true. They said that the law did not give vested rights to pensioners, but it did say that the General Assembly could not pass laws giving these vested rights; when you place this provision in the Constitution it is legislation, pure and simple. The whole power over this question rests with the legislative body of your State, and it has no place in the fundamental law. This is one reason why I am opposed to it.

There is yet another, and that is I believe it a wrong policy. It would give encouragement to future legislatures to go further. These men who have been getting these pension laws through your legislature will come

here at the very next meeting of the next General Assembly and say, "There is your Constitutional Convention, it has recognized the right and justice and propriety of these pensions," and I believe that is a step in the wrong direction. Its effect will be to create a special class of people in this country. For the life of me, I cannot understand why coal miners or men running a railroad train, or working in the fields should be taxed to pay pensions to State officials or State employees or city officials.

Now, it is based upon the assumption that the government of the Nation or the government of the State is very rich and has an abundance with which to pay these men. The governments of the several states and the Government of the United States are paupers, every one of them, and have nothing except what is paid into the treasury by the taxpayers of the country. So you are taxing one class of people to pay pensions to another, and I believe, as I said when this question was up before, that its effect on the country is bad, it will take away the incentive to industry and economy. And when you take those away, the wheels of progress will cease to go around, in my judgment. As I have said before, there is some reason for the State possibly paying in a small sum to pension school teachers. Of course that is no reason, if this is a just measure, why it should not be adopted, but on its merits I think you will find it will operate backwardly, and if we inaugurate it here, it may take one hundred years to get rid of it.

For myself, I shall oppose it with my voice and my vote whenever it arises.

Mr. GALE (Knox). If it were a theory that we were confronting, not a condition, I would be opposed to this measure. If we were proposing to start out on a pension system, I would oppose it; but it is not a theory. The pension system has been established in the State of Illinois since the year 1851. We have got to face facts as they are. That being true and the fact being so that there are pension systems in the various municipalities of the State, it seems to me it is a matter of common honesty alone.

Mr. FIFER (McLean). May I ask the gentleman a question?

Mr. GALE (Knox). Yes.

Mr. FIFER (McLean). Is it your view, as a lawyer, that the General Assembly hasn't full power over this whole question of pensions to the extent of saying if it is desired to do so they have rights such as are sought to be established by this provision of the Constitution?

Mr. GALE (Knox). It is my view that the General Assembly has the power to provide for a pension system without this provision in the Constitution.

Mr. FIFER (McLean). Yes.

Mr. GALE (KNOX). It is also my view without this provision in the Constitution the General Assembly, under the decision to which you referred to, has the right to take away from the people who have come into the pension system and who have relied on the pension fund, has the right to take away from them their rights, whenever it pleases.

Mr. FIFER (McLean). Can the federal government take away the pensions of all its soldiers?

Mr. GALE (Knox). I think it could do so.

Mr. FIFER (McLean). Did you ever hear of it doing so?

Mr. GALE (Knox). I never did.

Mr. FIFER (McLean). What has been the trend of the legislation in this State respecting pensions, if it has been each and every year almost towards those drawing pensions, more liberal every year?

Mr. GALE (Knox). I don't know whether that is so or not.

Mr. FIFER (McLean). If as a matter of fact, it has been growing, what is the great alarm about these legislatures going to take away the rights these people have?

Mr. GALE (Knox). The fact remains they have made this their attitude.

Under the Constitution as it stands now, a man may go on supposing he has a pension and serve fifteen of his twenty years, and then be told

that he has no more rights in the pension fund, and it seems to me, Mr. Chairman, that the situation is exactly as though I should hire a man to work for me for one thousand dollars a year, and when he demands more money say to him, "No, you contribute twenty dollars a year out of your salary and I will contribute fifty, and if you work for me twenty years you shall have the accumulation of that seventy dollars a year with interest," and he works for me fifteen years and at the end of that time I tell him I conclude to go back on my contract. Why, there is not a delegate in this Convention who could by any possibility permit himself to be put in that situation. Yet there are some of us who are willing to vote in this Convention that the cities in which we live, that the counties in which we live, that the State in which we live, can put itself in that position, and that is why I say, Mr. Chairman, that it seems to me it is a matter of common honesty alone that this sort of a provision should be in the Constitution, because the individual would be considered on all sides dishonest and a thief if he were to do that sort of thing, yet the city under our law as it stands can do that very thing.

Mr. TRAUTMANN (St. Clair). Don't you think it is just as important, for the same reasons, that this should go in the present Constitution, for the reason that they put the warehouse section in in 1870, a condition confronting the people the same as it does us now on this question?

Mr. GALE (Knox). It is possible, in view of the facts confronting the people in 1870, at that time the warehouse proposition was a good thing. My own belief is that the time has gone for the warehouse proposition, and for that reason I voted against it yesterday, but here is a proposition where it seems to me such a constitutional provision is required, in view of the courts' decision, to keep the municipalities of the State of Illinois honest, and for that reason, Mr. Chairman, I hope this will carry.

Mr. CARLSTROM (Mercer). I just want to say that I am authorized to accept the amendment brought up by Mr. Miller substituting "such" for "a".

CHAIRMAN SHANAHAN. If there are no objections, such change will be made.

Mr. TANNER (Clay). May I ask the gentleman who authorized him to accept it?

Mr. CARLSTROM (Mercer). My own judgment, and these friends of this measure with whom I discussed it.

Mr. JARMAN (Schuyler). I would like to ask as a matter of information how this proposition affects municipalities. In its last clause it says "shall impose no obligation on the State". It does not say any political division of the State, and does not refer to municipalities at all. I would like some explanation before I vote on it with reference to that question.

Mr. DAWES (Cook). I think I can answer the question that the delegate asks, to his satisfaction, and I will be glad to do it. Before doing so I would like to make a few remarks on this proposal. It is in its essence the proposal that was before the Convention a few weeks ago. At that time there was a misunderstanding and a misapprehension as to the proposal before them. The proposal today undertakes to clear up those misunderstandings. A repetition of the facts and of the conditions existing in the State may not be out of order at this time.

When the Commission appointed by the Governor to look into general pension system of the State went into the consideration of the very large systems established, they gave consideration to the methods that might be adopted to make more secure and more just and more modern the systems. The present State Constitution and legislative sections of the Constitution adopted by this Convention contain such provisions as these, that no extra compensation should ever be paid to public employees after the service was rendered, and that the credit of the State should never be used for individual benefit. Those provisions of the Constitution seemed to make unconstitutional the pension system already established. Upon the other hand, the great public benefit which is achieved by these systems led

to the hope that those systems were constitutional and that the public interest and policy in them was such that they would be maintained and the laws were held valid and constitutional. Nevertheless, it was held that all of the funds contributed to the pension system were public funds, no matter if those funds were taken out of the salaries of employees, they thereby became public funds. Deductions of salaries were not money paid to employees, but as a matter of fact the money became public money. It was with respect to the contribution made by employees that these Commissioners hoped to establish some personal right to some portion of the fund. When they called on the Attorney-General to explain to them where the basis might be, he said that there was no basis whatever, that all funds were public funds and that all rights of all pensions were declared in the laws as passed.

It therefore seems vital to these commissioners that there should be at least one step toward a responsibility and personal interest attaching to the accumulation of these funds. This proposition has come to the Convention with the approval and at the suggestion of these Commissioners, and it actually amounted to nothing more than this, that notwithstanding what was written in the Constitution to the effect that no compensation could be paid after the service is performed, nevertheless the legislature by law might divert a portion of the salary. By diverting a portion of the salary and taking the money, that money was always regarded as the money of the individual. Such money so diverted might be contributed in whole or in part to a death, disability or retirement fund. Now, the essence of a death, disability or retirement fund is that all of the money contributed to it cannot be designated as a vested interest of the person who invested in the fund. A portion of it may be allocated to be returned to the individual, but the much larger portion of the fund must be allocated to the fund and payable to the individual on the happening of the contingency of death, disability or retirement, or any of the conditions under which the death, disability or retirement benefit might be paid. As to the portion of this fund on which rested the obligation of a vested interest, there would be the legislator's incentive to accumulate funds and there would be the beginning of a system that would be sound, just and secure.

It would be infinitely better for the State to abandon entirely any pretense whatever towards a system of this kind than to continue it with the feeling of uncertainty and insecurity that ultimately might attach to the systems already established.

Now, with respect to the inquiry that was made by the delegate from Schuyler, I am not perhaps as well qualified to answer it as others, for the reason I did not draw the proposal that is now before the committee, but perhaps the delegate has forgotten that all these things are established by the legislature. It is the legislature that has passed the laws that require municipalities to levy taxes to maintain the system. It is by legislative action that these funds are created and maintained. And therefore the expression that "nothing in this proposal shall be construed in any manner to require the State to maintain or create additional funds" would seem to cover the case, inasmuch as the enactment in all cases proceeds from the State's legislative action.

Now it is my opinion that, far from being a step in the wrong direction, this would be a step in the right direction. These systems are established, extensively established, in this State. The State for fifty or sixty years has committed itself irrevocably to the policy, and committing itself to this policy, the State has not been singular among other States, for practically all of the states of the Union, all of the civilized governments throughout the country have to a greater or less extent recognized the justice and the social advantage of paying a portion of the salaries through these death, disability and retirement funds. Since that is the fixed and settled policy of the State, it would seem to be advisable to surround that policy with such security and with such conditions looking towards justice, as appeal to the judgment of the Convention.

Mr. JARMAN (Schuyler). Would it be permissible under this last clause for the General Assembly to pass a law requiring a municipality to create and retain such a fund?

Mr. DAWES (Cook). I understand it would be permissible, as now.

Mr. JARMAN (Schuyler). You say it would be?

Mr. DAWES (Cook). It would be.

Mr. JARMAN (Schuyler). Then the General Assembly could pass a law requiring the City of Chicago to create and maintain a pension fund, or any other city?

Mr. DAWES (Cook). All of these laws were passed by the legislature compelling the City of Chicago and other cities in the State to establish these funds, to support them by taxation prescribed in the law. Now there is nothing in this that changes the situation.

Mr. JARMAN (Schuyler). Then when the General Assembly did pass laws, or such a law, the municipality would be required to maintain such fund?

Mr. DAWES (Cook). Under the law they would be required. As a matter of fact, many cities in this State have not complied with those laws.

Mr. MILLER (Cook). I would like to introduce an amendment to the substitute. I offer the following amendment and move its adoption:

In line 6 between the words "have" and "vested" change "a" to "such" so as to read "have such vested".

It is admitted by all that the fifteen laws which existed previous to the last session and all of the laws except the one passed at the last session are so designed as to not have these funds built up on actuary basis. It is the great fault of all the funds except the one for the park employees at Chicago. All of the existing forty-seven funds are built up on an ineffectual basis, and ultimately there will be trouble. It is admitted that the Police-men's Fund in Chicago is more than twenty-one million dollars short to meet what it should have to pay to meet the obligations that have been assumed.

It is also admitted that other funds in Chicago are behind to the extent of seven million dollars for the firemen, six million dollars for the school-teachers of Chicago, and five million dollars for the public employees. Now, these things are admitted, and the question is what is the purpose of recognizing this pension system in our Constitution?

Is it fair, as has been expressed by the delegate from Knox, if the legislature will turn around in its policy, and, after having granted fifteen of these laws which we now know are unsound, turn around and say to these people, "You have no rights?"

In my opinion there is no great danger that there will be a turning down of the public employees of this State and telling them that they cannot have their just due in the money advanced by them, any more than there would be for this legislature or the United States taking away the bonuses that have been voted for the soldiers.

Gentlemen, it is a physical impossibility for any trouble to come from that source. The trouble is coming from the facts that the funds are inadequate. The whole trouble is that the lobby that is here, I am not accusing them of being insincere or wrong, but the whole proposition is the making of these funds sound by placing upon them the responsibility of the State or the municipality.

Now, in looking over this proposal, I want to call your attention to a few things that I think are defective in it, and I have attempted in my amendment to meet the criticism which I make of this wording. In the first place, down to the word "law," which is in the third line to the last, I have no objection to the wording. That simply creates the authority in the legislature to establish contractual or vested interests. While I have no faith in the legislature being able to resist a lobby of this kind, yet that is not the part of the proposal which I object to. The part I object to is the following, in the next to the last line it says this interest shall only attach to the fund accumulated. Now, gentlemen, the fund accumulated is the entire fund. It has no meaning at all so far as any limitation on any part

of the fund is concerned, because the entire fund is accumulated. Then, down in the last line it says it shall impose no obligation on the State to create. It has already created. The very status and premise that we start on is that the fund is created. That is no protection for the public. As to the word "maintain," it seems to me if this is a vested interest, and it is established, no matter what is said they have to be maintained. If there is an obligation, somebody has to meet that obligation. If there is a vested right, it has to be protected. The vested right starts with the creation of the fund. If the fund is diverted, as they are being diverted, and it is admitted that they are being diverted on every hand, who is to pay when bankruptcy day arrives?

Gentlemen, the little contributions that these men contribute, together with the fund that is set aside to make up the total fund, that fund is going to be diverted. It is going to be diverted to the older men who get the pensions, and the great army of young men who have contributed towards the pension, small amounts individually, but which amount to millions and millions when accumulated, are going to be the liability which this document is going to place on the public. I say it is a mathematical impossibility to get away from the liability when you do not put the thing on a sound, actuarial basis and make the fund adequate to meet the obligations. The fundamental thing is the fund must be adequate or there will be trouble from someone, for the money is going to be paid to the wrong party, and some day they will have to pay it back to the party who owns it. You know the objections to the bonus system in reference to those people engaged in hazardous occupations. I cannot favor it unless modified by the amendment I have suggested.

That will make it necessary to protect the particular party's money; that will fix it so that any man will have something in the fund that will actually belong to him in which his vested right is established. I can see no harm if that condition prevails, and that is one of the actuary principles every sound fund has to have.

I cannot see how any municipality or the State can suffer thereby. I also added the suggestion, instead of saying State alone in the last line, you say State, municipality, or political division thereof, so as to protect the State as well as the cities, and the smaller cities of the State.

(Substitute adopted.)

CHAIRMAN SHANAHAN. The question is on the adoption of Section 33.

(Adopted.)

CHAIRMAN SHANAHAN. The next question before the committee is Section 31.

Mr. DUNLAP (Champaign). I am of the opinion that the report of the Committee on Agriculture of yesterday, which was a proposal providing for drainage for agricultural, sanitary and mining purposes, should be added to this article in place of the present Section 31, if it is to be adopted. I will ask the secretary to read Section 31 as it now stands. I offer the report of the Committee on Agriculture as a substitute for Section 31.

(Section 31 was read.)

There was a proposal introduced by Delegate Gee along the lines of the report of the Committee on Agriculture, and there was another proposal on the same subject introduced by the delegate from Clay, Mr. Tanner, which was referred to the Committee on Agriculture. It was decided the Committee on Agriculture would endeavor to cover the two proposals, investigate this matter and bring forth and make this report as their judgment in the matter.

Now, the delegate who introduced this proposal, Delegate Gee, of Lawrence, is better prepared to discuss the merits of this proposal than I am. I will defer what remarks I have until later and ask Delegate Gee to explain this proposition.

Mr. GEE (Lawrence). This Proposal 169 has its primary object the reclamation and improvement of the swamp and overflowed land in the

State of Illinois. We are generally most interested in the things which most concern our well being and welfare. Coming from a district along the Wabash and Embarras rivers extending two hundred miles, the upper end of which is traversed by the Embarras rivers, extending two hundred miles the upper end traversed by the Embarras river, probably one of the crookedest rivers in the State of Illinois, and along that stream as well as the Wabash on the Illinois side is a large quantity of fertile land awaiting the agriculturist, which will repay his labor as much as anything the legislature could do towards the reclamation of this land, if we have this proposition, which I earnestly appeal to the members of this Convention to favor. The question of drainage is in a part carried on successfully, in a great measure successfully in the State of Illinois under the present section of our statute, Article 4. We have found it in the communities in which I live essential in all the things we have. Since coming to this Convention, in conversation with gentlemen who live along the Illinois River, the Kaskaskia River and the little Wabash and other streams of lesser character in the State, I find the same reasons and the same need that I find in my own community under the present statute. Under the present statute, it devolves upon the land owners, owing to the uncertain acreage of the land, to independently and by themselves alone undertake the reclamation of their lands. Now this reclamation idea is not a new one or one peculiar to the State of Illinois. It is as wide as these United States, practically so. We have to bring into agricultural condition the lands which have been swamps. We have guarded against the overflow of our rivers and the land which has been reclaimed and can be successfully maintained is the most fertile one of all when brought into production.

The trouble that we have had is that these drainage districts are organized after a great deal of time and expense in the county court, and I believe in the circuit court by concurrent jurisdiction. The district is allowed and organized and we find that after one district is organized another is organized, and frequently they overlap and have different interests and a different set of engineers, and the result is that the successful reclamation of the lands is not fully acquired. So I have thought, gentlemen, that the wisdom of this Convention could work out a plan which would be of general application, so that the ultimate result which we most need in reclaiming these lands could be brought about.

The proposal I introduced in February last differs in many respects from the one sought to be substituted in this proposed article, but the basic principle is one and the same.

I may say that the Agricultural Committee has given this matter a great deal of attention. They have acquired the wisdom and the experience of men who have had some personal practical knowledge of the working conditions elsewhere. I have tried to gain some information, not only in my own State, but outside, and we have felt that it was for the best to adopt the proposal sought to be taken up now by this Convention.

I want to say that the estimate I make is not much wrong when I tell you that there is one million acres of that kind of land of which I have spoken in the State of Illinois, to be reclaimed. A million acres of fine, productive land means much to the necessary needs of the hour that we have tried to avail of in legislative action in this proposal. We have sought to lay down basic principles alone, and leave the legislature to mind in its wisdom the course necessary to prepare a scheme and organize it. We have made one departure to which I want to call attention, so it can be understood in the way we meant it to be understood, in the language of the opening of this proposal. The old constitutional provision, and I may say in passing that grew out of an urgent necessity, that it happens that a case from my own county was the cause and this provision was framed in 1870—along the Wabash River in my county, where as fertile lands, I think, exist as anywhere in the State of Illinois; the great corn belt is not exceeded anywhere in the world; fertile and rich for all products the earth produces in our climate, our people had organized what is called the Wabash Levee District. They built the levee and issued bonds, but when

the payment of those bonds came around, they found, as we always find, some objectors. One objector, by the name of Houston, refused to pay his bonds by special assessment. It was definitely determined by the edict of the Supreme Court there could not be a special assessment levied against lands which could be enforced, consequently Section 31 was put into the Constitution of 1870. This section reads, as you know, "permitting the owners of land." We have enlarged that by using the language "permitting the owners and lessees of land."

The inquiry in your minds, doubtless of many of you, at least, is why the lessees were put in. Why, there are a number of reasons; doubtless I need only mention one potent reason. In the counties of Clark, Crawford, Lawrence and Wabash there is a great industry which we who are connected with claim, if not the first industry of the world, is at least the second, probably the first, the oil industry. It has brought great wealth to our community, but in delving into the bowels of the earth for nature's product of oil so necessary in its refined production as well as crude, the oil producer strikes what is known as "salt water." When that is allowed to flow on the surface of the earth it is destructive to the agriculturist growing his crop. The result is that the leasehold of the oilmen, under the present conditions, as we conceive them to be, necessitates doubtless the draining off of that salt water, as we have been practically able to do without a great deal of trouble. But we have been unable in that industry to eliminate the human equation, as ever present in all business, that when we brought our oil to the surface mingled with salt water, or frequently salt water alone, when we did not get oil, we are up against suits for damages, we are up against objections of allowing us to drain it away across the line of the land of others without paying exorbitant prices.

So I conceived the idea of putting in this word "lessees." I could see no reason why, with that great industry vital to the development of the country more than individually to the man who produces the oil, in the progressive age in which we live, we ought not to have a right by eminent domain or otherwise, in the same way that a man would dig a ditch across the line of others for agricultural purposes, to drain away this refuse so as to clear up the salt water, so as to harm no one. That is the reason we have in this proposal the word "lessees." It might in a future feature of the article, it would mean even lessees of land for agricultural purposes, but up to the present time we do not find many tenants who drain and cultivate the land for their landlords. So I put the prominent feature of the lessees in this proposition to try and eliminate that thing which stares the oil men in the face. So with that addition we get down to paragraph 1, practically the same proposition as is now in the Constitution for agricultural, sanitary and mining purposes. I need not dwell on the necessity from an agricultural point of view of treating land more scientifically and otherwise helping towards the primary conditions which are sought to be obtained. The mining industry is at least not a secure one.

Then in paragraph 2 we provide for the organization of drainage districts. That is for the legislature, as they have done in the past, to provide means and methods of organizing these drainage districts and investing their corporate authorities with powers of eminent domain. A student of the drainage law in Illinois would admit, I think, that with the first drainage act passed in 1879 and the Farm Drainage Act about the same time, and the amendments of 1883 and 1885, down to the present time, the confusing legislation that takes an expert legal mind to properly understand, to organize a drainage district, to issue the bonds, to raise the money and to come with such a document as will stand the test of the critical, judicial minds of the courts—and that is the present condition—we have solved that difficulty by the adoption of this new amendment by the future legislatures, combined with the experience of the past, it will enable us to give better safeguards for the future. We are leaving it all in that respect to the legislative mind and not trying in the proposal to execute anything. The power, the basic power, we desire and leave to the legislature. Now

we have used some language that is somewhat new as compared with the old. We provide for special assessments, that, as you all know, is different from the word "taxes." A special assessment levied upon the lands as they are benefited, in other words, the individual land owner that gets the benefit will have the assessment extended against his land, doubtless in the same way as we have done heretofore. We have put in the word "taxation." I have found from practical experience that where we have organized a drainage district to reclaim lands by digging ditches, where we have built a levee along a stream for the purpose of preventing overflows, that when we come to assess the road districts or the towns on the theory that the roads and highways are benefited, we had a good deal of trouble for a long time between the decisions of the higher courts, until finally the decision of the highest court told us we could do it, and we are doing it. But these highway commissioners and taxing bodies that get their money from other than the land's benefit, are always determined to whittle that down and get by with the smallest stipend of pay that they can. We have thought and have brought it here for your consideration, the idea that the thing benefited more by the reclamation of the soil than the individual land owner is the land that is made in the district. We have thought that a county and a town, I mean by that a township, as we frequently say, or a city or a village or a county, which may have some benefit, sanitary or otherwise, should bear some part of the cost of the reclamation matter at hand, and that it may properly be adjudged against them. That is somewhat a new departure, but a departure, I think, in the right direction. Now we are giving the legislature the appropriate powers, and we are not meaning to tie them by any restrictive provision for the development, construction and maintenance of the flood control.

By flood control we mean where a river overflows the banks and casts its water over the crops as it frequently does in the month of June, and destroys the labor of months, the fine, alluring prospects of crops. There are a number of ways which may be mentioned to a gentleman who has given this thing practical investigation by which floods can be controlled. We have adopted down in my district two ways, we have built levees and embankments along the sides of the stream. We have found that very conducive to the end desired, but it didn't give the flood relief entirely. Sometimes the great flood impact of the waters tears our levees down, even since I have sat in this Convention, across the river in my sister state of Indiana a great flood tore down the levee and destroyed thousands of acres of that which we most need now, wheat. We have adopted another mode of trying to control floods, in our crooked streams. When I was a boy, asking the teacher in school questions, I asked why streams were so crooked and why the current and the torrential force of water in all of the streams that we had to deal with in our geography were always mapped crooked, and he gave me as a reason that it was the wisdom of Nature to make the streams crooked, so they would not tear away things so much. One of the questions in my own home county, in trying to control the Embarrass River, the idea was suggested and talked over pro and con and after finally a great deal of opposition was overcome, we undertook to straighten the river. We took bends and crooks in my county measuring nine miles and cut across in a straight line from one bend to another, and we have relieved the situation a great deal with a three mile cut. That is a proposition to be worked out, the straightening of our rivers. There is another question to be thought out by our legislative minds, and they get the power to do it by this proposal, and that is to get an outlet for these drain waters, and men who have laid a quarter of a mile of tile know the futility of the effort if they do not have a proper outlet. Some of our lands in the State of Illinois are so situated by Nature as to be flat and to a great extent the fall is very little. I have been studying the map of the district from my home town to Springfield, and while we are a little over 400 feet above the sea level, I find that the greatest elevation is down here in Clay county. I find wherever the two kinds of land are situated the depressed portion of the land

has no outlet. The hill needs no drainage, the elevated land will drain off. Our theory is that the State may come in and help give an outlet in controlling the flats. The State and the State alone, as I understand it, can control the great rivers and control the Embarrass and the Wabash. So we are providing in this Constitution a suggestion to your minds that the legislature may make a measure that will provide that the State may pay some of the proportionate cost of this reclamation project, whether irrigation, leveeing or straightening a river.

Mr. TRAUTMANN (St. Clair). Isn't it your intention that the legislature might make an appropriation out of the general fund for this purpose?

Mr. GEE (Lawrence). Yes, and I expect to be met on that proposition by the old refuge, when the tocsin of the alarm sounds about the State paying anything, why it is sacred. State money shall never be paid for class purposes or for individual profits. But gentlemen, I may say now in passing, I do not expect to say it all, I simply want to put this in as concise a way as I know how to your minds, here is a matter which I think the whole State is vitally interested in. The State has passed the question as to road-building participating in the public funds to help build a highway. I do not concede that there is anything to prevent the State from appropriating some of the money to furnish the outlet to drain the rivers, to make the possibility of success to the drainage districts in the communities that have these kinds of lands. We are putting in now a new method, and for the first time so far as I know in Illinois the agricultural man comes in view and says, "I have done all I can do, I have gone as far as the law will permit at the present under the Constitution, yet I have not done enough." Fifty years ago many things that are conceived now as realities then would have been to most minds mere vagaries.

Mr. TRAUTMANN (St. Clair). I am with you in the proposition, but what I am wondering was whether it would conflict with the provision passed the other day on canals. That would not interfere?

Mr. GEE (Lawrence). No, sir; I think there is a very wide distinction between the canals and rivers; always has been in the improvement of canals in different states. I do not think any canals were ever thought to be or are built or constructed for the purpose of reclaiming land.

Mr. TRAUTMANN (St. Clair). You think that applies to agricultural canals?

Mr. GEE (Lawrence). Yes, the basic point that we start on is this, we have one million acres in Illinois, of fertile swamp land. In other words, land with two much moisture, which cannot be used in the production of agricultural products. I know you will unite with me in saying that those fertile lands ought to be in cultivation.

Gentlemen, when you stop to think what the final end was in cutting down the forest, I know you will agree with me. This is not an idea beyond the power of man to perform with the aid of assistance and safeguards, to reclaim all these lands that are subject to overflow and free all swamps which are overflowed by rivers, and by rivers I take in creeks and all things of that kind, so, gentlemen, this will work for the reclamation of these lands and the amount is so enormous they ought not to be allowed to lay idle for fifty years. The humane needs of the hour require their necessary production if it can be had.

And we make just one departure, outside of the question of lessee, and I think that is insignificant, insofar as the ultimate necessity of the hour is concerned.

I want you to know before any man takes his ultimate position on this proposal that we are leaving the amount to the district in which it shall be given by the legislature. It is not often that agriculture knocks at the doors of the Convention like this. The farmer being the vocation on which all must stand or fall, I want to appeal to you gentlemen to give this some thought and consider the need which is apparent for it.

Mr. WILSON (Cook). I offer the following amendment and move its adoption:

Strike out in the 15th and 16th lines the following words, "and in part by the State or any political sub-division thereof."

Amend the substitute section by striking out the word "taxation" in line 7.

Mr. GALE (Knox). I would like to ask Delegate Gee a question.

Mr. GEE (Lawrence). Yes.

Mr. GALE (Knox). In the second clause of this proposal you use the words "investing other corporate authorities with the power of eminent domain, taxation and special assessment." Now, practically this second clause is the second section of thirty-one as it stands here, only you give the right of general taxation there instead of special assessment on the property benefitted thereby. I want to ask if in that second clause you really think that the power of general taxation ought to be delegated to these drainage districts, so far as that second clause in the proposition is concerned; wouldn't it be better to confine them to either special assessment or special taxation on the property within question, should they have a right to have general power of taxation in that clause?

Mr. GEE (Lawrence). I will answer the gentleman from Knox by saying that I stood for special taxation, as I think there is a difference between general taxation and special taxation, but in the minds of the men who are more able than I am, they used the word "taxation" alone. I am not prepared to say that special taxation is not the better way to do it, because it seemed to be the sense of the committee that that is the way it ought to be done.

Mr. GALE (Knox). It seems to me what we are trying to seek in this proposal is something all the State is interested in, a thing which would be helpful for the State, but I am loathe to support the proposition with the power of taxation in the drainage districts, and furthermore, as you will notice, without any territorial limitations on that authority.

Mr. GEE (Lawrence). We thought when we got to that finally, we thought the General Assembly would take care of that proposition. The taxation permitted possibly would include special taxation, but I think special taxation really would have been the better way to put it.

Mr. GREEN (Champaign). I would like to ask you if there is any power conferred by this substitute that is not conferred by Section 31 of the old Constitution as reported by the committee, except the power of the General Assembly to make appropriations and levy taxes to construct, develop and maintain these drainage districts, either the State or a political sub-division thereof.

Mr. GEE (Lawrence). I don't understand under the present Constitution the State can levy any taxes to permit that.

Mr. GREEN (Champaign). That is right, that is not in Section 31. Under this substitute apparently, the city, county or township or the State could appropriate money and levy taxes to pay it, to contribute to the construction of a district. Now, is there any other new power conferred except by this substitute?

Mr. GEE (Lawrence). Well, I would say no.

Mr. GREEN (Champaign). Then the matter simmers down to a question of policy of whether or not the Constitution should authorize the General Assembly to make an appropriation and tax levies to be taken from the State treasury, and likewise in a manner from political subdivisions, in aid of the maintenance, construction and development of drainage districts. That is the real question, isn't it?

Mr. GEE (Lawrence). We have enlarged it, not only for the owners of the land, but the lessees of land, and I have stated the reason why we should have this legislation, and then when the corporate authorities have the power of eminent domain—

Mr. GREEN (Champaign). They have that power now, haven't they?

Mr. GEE (Lawrence). They have that power, yes.

Mr. GREEN (Champaign). That is no new power.

Mr. GEE (Lawrence). Then the power of taxation, that is left to the legislature.

Mr. GREEN (Champaign). What does that mean, the power of the drainage district to levy taxes?

Mr. GEE (Lawrence). When the legislature comes to formulate the law, that is this provision gives them the physical power and the right to make a law of that kind, they will figure out how the proceedings shall be carried out, special assessments against the land alone or special taxation or general taxation—I take it the word “taxation” would be power enough to give the legislature authority to make it by special taxation against the land or general taxation in the county in which it was organized—

Mr. GREEN (Champaign). By general taxation, the difference between that and special assessment is that the action of the legislative body, whether the legislature or the city council of whatever it may be, is conclusive on the question of benefits, while a special assessment does not preclude the question of benefits. That is the only difference, isn't it?

Mr. GEE (Lawrence). The special assessment can never exceed the benefits.

Mr. GREEN (Champaign). The general taxation, on that the judgment of the legislature is conclusive. The whole new matter sought to be controlled by this substitute is to give the power to the State or its subdivision to levy taxes in aid of the construction and maintenance of drainage districts, from the public treasury.

Mr. GEE (Lawrence). So far as the State is concerned, to pay a part of it, as the legislature may direct.

Mr. GREEN (Champaign). Ninety-nine or one per cent, as the legislature may direct?

Mr. GEE (Lawrence). Yes.

Mr. GREEN (Champaign). Out of the public treasury?

Mr. GEE (Lawrence). Yes.

Mr. GALE (Knox). You say providing for mining purposes. Do you want to give the power of taxation for mining purposes, too?

Mr. GEE (Lawrence). The present statute of 1879 is for agricultural, sanitary and mining purposes, and we have adopted the language of the old Constitution as far as that is concerned.

Mr. GALE (Knox). Well, I want to call your attention to the difference there. You say, as you have here in Section 1, the old amendment to the Constitution permits the owners of land to construct drains, ditches and roads for agricultural, sanitary and mining purposes across the land of others, but it left out mining purposes; in the second part of that, where it provides for the organization of drainage districts there the mining purposes is left out. So you apparently are giving the power of taxation for mining purposes.

Mr. GEE (Lawrence). Your objection is that after the word “agricultural,” “and mining purposes” should be left out for the reason that tax may be levied peculiarly applicable to mining purposes?

Mr. GALE (Knox). Yes, I do not think either taxation or special assessment should apply to mining purposes. I have no objection to it in the first clause, where you merely provide for the construction of drains and ditches. I do not myself think for mining purposes is proper; that is a different proposition, where you propose to organize a district and give it power for special assessment and taxation and eminent domain for mining purposes.

Mr. GEE (Lawrence). Now, do we do that?

Mr. GALE (Knox). I am not sure.

Mr. GEE (Lawrence). I do not think we do.

Mr. LINDLY (Bond). I ask the indulgence just a minute of the Convention in regard to the amendment offered by the gentleman from Cook. This question was discussed before the Public Works Committee for quite a while before the subject was turned over to the agricultural committee, as we did not want two committees to have the same subject.

I gathered from the statements of those before the committee one of the great troubles with farm districts and drainage districts in the State was that they had increased the flow of water into the rivers so that one of the outlets of the river was not capable of taking care of the additional flow that had come from the many districts which had been created near its source along the river; and as you went further down the river it became more expensive to create drainage districts to take care of this extra flow of water which had been thrown in by the drainage above.

The only object that they desired was that the State should step in and take care of the outlet of these streams and improve them so that the extra water which had been coming down from the districts above should find an outlet and not impose a heavier burden on those who were near the mouths of these different streams. I believe that is just and right. It is more just that the State should take care of the overflow than that they should aid in the construction of a drainage district proper. I believe it is right that the State should.

There was some question as to whether they could under the laws that exist, or under the Constitution, and for that reason I think it would be perfectly proper to include in this section the aid of the State, leaving it entirely to the legislature the manner of opening up these outlets and treating of the streams so that there can be an outlet for the extra water put in them. I think it would be proper and a good thing to be done, because these districts are not capable of doing this work themselves. I think there is a large area of land which can be developed. The Department of the University appeared before our committee with a large map showing how they could lay out one of these entire valleys or districts, all connected in one stream, but the statement was, the expense of making this is too big, and the idea was with the State aid when they wanted to create the district they would have a uniform system along this entire valley, and that expense ought to be borne by the state so that there could be a uniformity as far as the engineering features were concerned. I believe we ought to support this proposition.

Mr. SIX (Pike). Now, that is the very question that this proposal brings up, gentlemen, in my opinion, the question where small districts are being created, where it is possible to have larger ones, results in competition and differences between the engineers. If the State could lay out a comprehensive plan of drainage in any given district, all other districts would be forced to conform to that. This proposal has much, in my opinion, in its favor in regard to uniformity.

In our country we have drainage districts on both sides of the river, one district having about 110,000 acres and the other side several small districts. On the west side of our county, the Mississippi side, there is a little competition with regard to the engineering problems, but on the east side there has been constant conflict between the districts as to which way the water should be handled and how it can be taken care of. This would give the legislature an opportunity to establish some degree of uniformity and would result in a solution of problems which are of benefit to the whole State. I take it is not necessary to mention the fact that these lands at one time in our county sold for ten cents an acre and later sold for taxes, yet I have seen the same lands sold for more than three hundred dollars an acre, and more than one hundred bushels grown there to the acre.

I have never seen the time in the drainage district when there was not more grain sold in the drainage district to the acre than on the hillsides, notwithstanding the question of rain and fall of water.

This is of tremendous interest to the State, not because of that mere fact, but the very situation under which these people operate is due to other forces in the State over which they have no control, and they constitute a State problem greatly different than to asking the State to aid them for a certain purpose for themselves. It is very necessary that the State perform its proper function and duty.

I hope the proposition will get the assistance it merits and not be viewed as a grab by a few people.

Mr. DUNLAP (Champaign). I would like to offer a few remarks on the part of the amendment of the gentleman from Cook, Mr. Wilson, in regard to striking out the words "by the State."

The interest of the State as it appears in this proposition is to take care of the flood water at the mouths of these rivers, as I understand it, and the river may have a number of drainage districts.

Some of these rivers are a good many miles in length and the inability of the lower districts near the mouth of the river to take care of the flood waters sent down on account of the drainage districts up above bring a liability upon the State to do something towards either straightening the channel of the river near the mouth or the straightening out of these channels along the river for that purpose.

Furthermore, we all know along these large rivers instances of this kind, where land has been reclaimed and it has always proven that the land is very fertile and more productive really than unreclaimed land.

An instance I have in mind is the Cash River in Southern Illinois, a tortuous stream in the great valley of the State. The expense of drainage was the great question, as to whether the expense of the drainage could be met by the increased value of the land, and there were a good many thousand acres involved in this drainage. The matter was presented to the legislature, and an appropriation, if I remember rightly, of \$20,000 was made for the purpose of making the preliminary survey and plans to test the feasibility of the drainage of that river. That is in the extreme southern part of Illinois. Now that appropriation was made, but it was made with the express fear that the appropriation was unconstitutional, being made for the special purpose. No one contested it, and the plans were made and surveys perfected and thousands of acres of land in that valley were reclaimed as a result. The people interested in the reclamation of those lands paying for the expense of that district, except the amount that was necessary for the preliminary survey. I am told there are a number of rivers in this State that the State could take the initiative on and present plans. Plans could then be consummated for the organization of drainage districts. It is not contemplated in this proposal that the State shall be obligated in paying for any part of this expense of reclaiming this land. That is not the idea at all. It is simply that the State should pay its portion, as far as the interest appears it has any. I think the legislature would take care of the proposition as it appeared. I do not think the legislature, representing the different parts of the State, as it does, would pass a law that would give any special locality of the State a special privilege along this line of having the expense of its drainage paid by the State. I do not think that at all. I do not think that could be accomplished in the General Assembly or any other body of men representing the State, so I have no fear that the power that is conferred here, making the State pay a part of such expense, so far as its interest may appear, will be violated. The importance of this subject of reclamation of a million and a half acres of fertile land is such that we ought at least to give the legislature the authority that is vested in them by this amendment, and, therefore, I hope the gentleman will either withdraw his amendment or that it will be defeated.

As to the word "taxation" in Article 2, I am inclined to think that word "taxation" ought to be stricken out, because I believe, myself, no corporate authority or drainage district should be given authority for general taxation, and when the appropriate time comes, an amendment will be offered striking the word "taxation" out.

(Amendment lost.)

Mr. DUNLAP (Champaign). I offer the following amendment and move its adoption:

The General Assembly may pass laws:

(1) Permitting the owners and lessees of lands and of minerals to construct drains, ditches and levees upon or across the lands of others for agricultural, sanitary and mining purposes;

(2) Providing for the organization of drainage districts and investing other corporate authorities with powers of eminent domain, taxation and

special assessment, and that such other appropriate powers as the General Assembly may deem necessary, for the development, construction and maintenance of flood control, irrigation and of drainage for sanitary, agricultural and mining purposes; and

(3) May provide for the development, construction and maintenance of such projects in whole by such drainage districts or any part at the expense of such drainage districts and in part by the State or any political subdivision thereof.

The authority given for the accomplishment of the purposes set forth in this section shall not deprive the General Assembly of the power to provide other means for the accomplishment thereof.

(Amendment adopted.)

CHAIRMAN SHANAHAN. The question is on the adoption of the substitute offered by the gentleman from Champaign.

Mr. HAMILL (Cook). I would like some information from any member of the committee reporting this measure out; the measure provides for the straightening of river courses, made partly at the expense of the drainage district and partly at the expense of the State or any political subdivision thereof. Is it the intention to give to the General Assembly power to provide for straightening a river partly at the expense of a drainage district to be created, and partly at the expense of a political division of the State which is not benefitted by it or touched by it, or which has no connection with it? Is that the idea?

Mr. GEE (Lawrence). I think not. I think that the political division that does not get any benefit would not be taxed.

Mr. HAMILL (Cook). What is there in this article which would preclude the General Assembly from imposing a part of that cost on a political subdivision of the State which is not touched?

Mr. DUNLAP (Champaign). That was inserted there, as I understand it, for the purpose of giving any county that lay alongside of the river, or any city alongside of the river, interested in that special drainage project, the right to have the tax in the enabling act which would be best for it, not to confer on the corporate authority of any drainage district the right to tax any county. We did not suppose it conferred the right to tax any county which would not be benefitted by it.

Mr. HAMILL (Cook). Is there anything in the clause as now drawn to prevent the legislature from imposing on any county or municipality, not benefitted by the improvement, a tax for that purpose?

Mr. DUNLAP (Champaign). There is not. In the ordinary analysis of such things, the legislature has sound judgment in regard to such matters.

(Substitute adopted.)

CHAIRMAN SHANAHAN. The question is on the adoption of Section 31, as amended by the substitute amendment.

Mr. LINDLY (Bond). I move it be adopted.

(Adopted.)

CHAIRMAN SHANAHAN. The question now is on the adoption of Article 4 as a whole.

Mr. DAVIS (Cook). There are some admirable and attractive features of that article, but there is one feature of that article which does not appeal to a great number of the delegates that represent a great portion of the State of Illinois, and for that reason, when the vote is taken, I shall be obliged to vote in the negative for the adoption of that article.

(Adopted.)

Mr. HAMILL (Cook). I voted in the affirmative for the adoption of the article, but I give notice now that at the next session I shall move to reconsider.

Mr. DUNLAP (Champaign). I rise to a point of order that he cannot give notice to a Committee of the Whole to reconsider.

CHAIRMAN SHANAHAN. The point of order is well taken.

(Article 4 adopted.)

Mr. LINDLY (Bond). I move that the committee do now rise and report progress.

(So ordered.)

(President Woodward presiding.)

Mr. SHANAHAN (Cook). Mr. President, I desire to report that the Committee of the Whole has sat and considered Proposal No. 366 with all amendments thereto, and reports back Article 4 with the recommendation it be adopted.

(Report adopted.)

Mr. HAMILL (Cook). Roll call on that, Mr. Chairman.

(Whereupon the clerk called the roll.)

Mr. HAMILL (Cook). Having voted in the affirmative, I now give notice that I shall move to reconsider the vote.

Mr. SHANAHAN (Cook). I desire to report further that the Committee of the Whole has had under consideration certain proposals which are recommended by the committee be rejected.

(Report adopted.)

THE PRESIDENT. The chair designates Delegate Hull of Cook to act as chairman of the Committee of the Whole.

(Chairman Hull presiding.)

CHAIRMAN HULL. Gentlemen, when the Convention was organized, two committees were appointed, one the Committee on Municipal Government and the other on Chicago and Cook County, and to these two committees were sent proposals having to do with Home Rule for cities, and other measures. The committees have worked industriously on this difficult subject; each committee got out a proposal for itself. The committees then, through sub-committees appointed by each of these two committees, tried to harmonize the proposals relating to Home Rule for cities into a single proposal, and they are presenting here together a proposal for a State-wide Home Rule article, affecting all cities. So far as the Committee on Chicago and Cook County is concerned, this is only a partial report. There are other matters which will have to be reported back to the Committee of the Whole. I cannot speak for the Committee on Municipal Government in that respect. We will now ask your strict attention to the report of these two committees. The clerk will read the proposal.

(Report read.)

In view of the fact that several members of this Convention do not have proposals and have not had much opportunity to examine it, I move you, Mr. Chairman, that the committee recess until 4 o'clock.

Motion prevailed and the Committee of the Whole took a recess until 4:00 o'clock p. m. of the same day.

4:00 O'CLOCK P. M.

The Convention met, pursuant to adjournment.

(Mr. Hull of Cook in the chair.)

CHAIRMAN HULL. The first section of Proposal 374 is under discussion.

Mr. GARRETT (Winnebago). This report is what might be termed a report of two committees, that of Chicago, or Cook county, and that of the Municipal Government Committee.

We feel that in reference to the so-called Home Rule proposition that a law or a section or report can be easily made to cover not only Chicago but as well the other cities of the State. We, therefore, after considerable work, agreed to arrive at this report which you have in front of you.

The first section, which has been read, is subject to any existing or future laws of the State, and, in fact, Sections 1, 2, 3, and 4, are subject to the statutory laws of the State. There are a great many things included here that the cities have the power to do now, especially in those first four sections.

Under the subject of public utilities, which covers 5, 6, and 7, that is different than the present law.

The matter of zoning, under Section 8, is a new proposition. It is covered partially by the statute at the present time, but not fully or as fully as it is set out here.

Section 9, the charter convention power, merely refers to the manner of adopting a charter by a city.

Section 10 is largely what is now in the Constitution, as I recall it.

Section 11 covers the matter of cities joining together for acquisition, construction, etc., on public improvements, utilities or local services.

The two committees, as I have said, have spent a great deal of time on this subject and have listened to a great many arguments made by members of the Convention, as well as outsiders, and we finally arrived at this report, which we believe will satisfy the whole State as well as the City of Chicago.

Mr. JARMAN (Schuyler). At the request of the committee, I want to make, as a member of the committee, some further explanations in addition to what the chairman has made in reference to this report. As you know, the Municipal Government Committee and the Cook County Committee were organized especially with reference to this question of municipal home rule. As has been stated, those committees joined and entered upon a discussion for several weeks with reference to the different questions that arose, and it was thought best to make a proposition here from both committees so that the proposition would apply to all the cities of the State and not specially to Cook county and then another proposition to all the other municipalities of the State.

Now I, as a member of this committee, have no information, I can tell you in the first place, except what I have learned as a member of this committee. I thought it my duty as such member to investigate the question as thoroughly as I could in the time given and to aid in adopting what I thought would be a proper home rule measure for the State. In making this report, it was understood that any member of the committee could introduce any amendment that he thought best, and there will be some amendments introduced myself, as I have a different view to some extent on the question of home rule from that enunciated in this report.

Now, this question does not concern me individually, nor the city from which I come, because I anticipate that the small cities of this State will not be interested to any extent on this question of home rule, because they probably never will adopt it, having all the powers and all the organization that they desire and require under the general laws of the State.

There are two theories of home rule which obtain throughout this country. One is to give the cities complete home rule as to municipal affairs and not be controlled in municipal affairs solely by the legislature. Another theory is to give home rule subject to general law, or subject, as is indicated in this proposal, to existing or future laws. You will have noticed, of course, the difference in the two propositions or the two theories is this: that in the first, the legislature has no control over the city with reference solely to municipal affairs, but it has complete control over the city with reference to State laws or State concern. Under the latter, the grant of power is given and the city can exercise the grant of powers without any supervision or any grant of power from the legislature, having the grant of power from the constitutional provision. However, in such a case as that the legislature can take away at any time any of those powers or recall them in any way that the legislature might deem proper. The difference between that condition and the present condition is that cities only have those powers which the legislature grants by special act or general law. In the other case, as it is proposed here, the cities or municipalities have such powers as the Constitution gives them, and those provisions of the Constitutions generally throughout the country wherever the home rule proposition has been adopted, give to the cities all powers with

reference to municipal affairs, but some of the constitutions in the different states retain in the legislature the power to take away those powers.

Now, the first theory of municipal home rule is similar to the Federal government. That is, the states grant to the Federal government certain powers and those powers are supreme within the jurisdiction of the matters granted. In the first theory of home rule the Constitution or State grants to the city complete home rule powers with reference to municipal affairs of the city and those powers are supreme with reference to those affairs. Now this question is raised and it may be of some interest to the Convention. I do not know to what extent the delegates have investigated this question, but it has a history and it has a developed history.

The first home rule proposition that was ever embraced in a constitution in this country was in the State of Missouri in 1875. That constitutional provision was demanded, of course, by the City of St. Louis. Since that time St. Louis has been acting under that constitutional provision, and the Constitution in several cases has been amended to suit developing conditions. In 1879 California passed a home rule constitutional provision, which is quite a long provision because since that time it has been amended many, many times. I think twenty-seven constitutional amendments have been made, if I remember correctly, to the Constitution with reference to home rule in California.

The California Constitution first started out with the provisions that the home rule powers should be subject to the legislature, but they finally wound up in 1894 in providing that they should be subject to the legislature only as to State affairs and not as to municipal affairs. There are today in the United States thirteen states which have adopted constitutional home rule, and in each of those states as I read about it, it has been successful and all of the large cities have adopted it. Now, as it might be of some interest to you to know what those states are, as the character of the states might influence the delegates here in determining whether or not a constitutional provision should be adopted, I will read the list of those States, and the year in which they adopted the home rule provision:

Washington, 1889.

Minnesota, 1896.

Colorado, 1902.

Oregon, 1906.

Oklahoma, 1908.

Michigan, 1909.

Ohio, 1912.

Arizona, 1912.

Nebraska, 1912; and Nebraska has re-adopted the same provision in the Constitution passed this year by the Constitutional Convention.

Maryland, 1915.

California, 1879.

Missouri, 1875.

Texas, 1912.

Making thirteen different states.

This provision report is with reference to the organization of the powers of cities, and in the examination of this report you will find that the cities are given complete power with reference to the organization of the government—what we might call the frame-work of government—and it is not limited and not subject to law with reference to the organization of a city, but in some instances, and in most instances, with the exception of one or two sections, it is noted what the city may do with reference to the formation of a charter described and providing for certain powers—those powers can be taken away from the city by the legislature at any time.

That is all I have to say on this general proposition, but as Section 1 is before the house, I move an amendment to Section 1, which I presume will be agreed to after I explain it. I think it was a matter that was overlooked.

AMENDMENT No. 1.

Amend Section 1, in line 6. by inserting after the word "no" the word "such".

Mr. SUTHERLAND (Cook). I wonder if the delegate from Schuyler would object to this language, which was suggested by the chairman of the Cook county committee: "Any such power of local self-government and corporate action," simply repeating the words so there can be no doubt whatever.

Mr. JARMAN (Schuyler). I do not see any objection to the suggestion, but still I do not see that it is required.

CHAIRMAN HULL. After the report had been approved by the committee, Mr. Quinn made the suggestion that the word "such" ought to be put in after the word "any" so as to make it clear that the word "power" refer to the power of local self-government. The chair took it up with every member of the committee who signed the report and no objection was raised.

Mr. GARRETT (Winnebago). Our committee agreed to it.

Mr. JARMAN (Schuyler). If the chairman of the committee thinks it better, I will accept it.

CHAIRMAN HULL. I know of no objection to the form of it.

Mr. JARMAN (Schuyler). I accept the amendment.

(Motion adopted.)

Mr. JARMAN (Schuyler). I desire to offer another amendment.

AMENDMENT No. 2.

Amend Section 2 by inserting after the word "law" in line 8, the words "which shall be subject to general laws in matter relating to State affairs" and also by striking out in line 1 the words "subject to existing or future laws."

Mr. JARMAN (Schuyler). As you read this amendment you will see how it changes this provision. It conforms to the first theory of home rule, as I suggested a few moments ago. That is, it gives cities complete home rule as to municipal affairs. The section, as amended, presents a clear, definite issue whether or not the cities shall be subject to the legislature as to municipal affairs solely and shall be subject as to State affairs or whether or not all of its powers shall be subject to the legislature.

I introduced this amendment for two reasons. First, because it is the judgment of the Municipal League, as presented before the Committee of the Whole in this Convention that this should be the home rule provision. Twenty years ago there was formed in this country what was called the National Municipal League, of which Mr. Charles Evans Hughes of New York is President, and we find that our honored chairman, Morton D. Hull, of Chicago, is one of the vice presidents. I take this from the June number of the National Municipal Review. That National Municipal League has studied this question for twenty years and have studied its operation in all the states having the home rule provision in their constitution. In 1919 a committee composed of members of this Municipal League formed a National Municipal League programme and suggested a form of municipal charter to be inserted in the Constitutions of this country. That report of the committee, which met at Philadelphia in 1917 and published in 1919, was adopted, as I understand, by this National Municipal League. Now, in conformity with that study and in conformity with the studies of the State Municipal League, which is composed of members from 200 cities, a proposition was introduced here, No. 346. That provides for municipal home rule, according to the first theory, that is, as I said, that the legislature would have no control over city government with reference to purely municipal affairs. Knowing that this was the judgment of the National Municipal League and the City Municipal League, and a great many other people who have studied the question, I have introduced this amendment

to the proposition. It was before the Cook county committee, and the report that has been introduced here was adopted especially with the understanding that this proposition could be presented to the Convention. To my mind, it is the only logical home rule proposition. It seems to me to be futile to give a city home rule and then say to them that at any time the legislature can take it away.

But my judgment will not go very far with you. You will exercise your own judgment. But I present this proposition in the belief that it is the best thing for the cities and that they are entitled to it as cities on the question of home rule.

Mr. TAFF (Fulton). Do you distinguish between State affairs and municipal affairs in your proposition?

Mr. JARMAN (Schuyler). That is a matter that is arrived at, by construction, of course, by the cities themselves. If a question arises it must be decided by the courts, and the courts may vary from time to time on those questions. You cannot avoid that. You have the same question here in this proposition, because by it you grant powers of home rule, and if the legislature does not grant any action, then the question arises as to whether or not it is of State concern or of municipal concern. That question has been litigated for twenty years or more in the different states. There is a long line of decisions on this question in the State of California and other states as they have taken up this theory of home rule.

Mr. TAFF (Fulton). Are those decisions of the different states harmonious as to what is purely state affairs and municipal affairs?

Mr. JARMAN (Schuyler). I wouldn't say that. There are some decisions in Missouri that are different from those in California, but that arises in every question. It has to be argued out.

Mr. MILLER (Cook). It seems to me that it would be unwise to make this change which has been suggested by the gentleman from Schuyler. That change would leave the constitutional provision relating to home rule in this form: It would undertake to divide the powers between the State and the city and to make that division irrevocable so long as the constitution remains unchanged. In every case where the State law, either now or hereafter, treats of the same subject that is treated of by a city, the question arises as to whether or not that particular subject is a subject of local concern or State concern, and, of course, it is not hard to see that many questions under that category would arise which are difficult of solution, because so many questions have both a local and a State aspect, and there would never be any certainty as to whether or not a power sought to be exercised by a municipality were properly exercised. On the other hand, with the provision as it is drawn here, the question could never arise where the city undertakes to exercise a power because wherever the State acts, that law is supreme and supersedes the action of the city. Of course, there would remain the question, when a city acts, whether or not that power which the city undertakes to act has a local aspect, and whether, therefore, that power has been properly exercised. But it is only in those cases where the city has not undertaken to exercise and shall not undertake to act that the question can arise, and the great multitude of questions arise where both have undertaken to act.

That is one reason why it seems to me that it is unwise to make this change; and there is another reason. Isn't it perfectly plain that there are many powers, ordinarily local, which may become of State interest and wherein the State ought to have or where it may arise that the State ought to have the power to act? Sanitary conditions in any locality of the State are strictly local matters and yet they may become matters of concern outside of that municipality. And if they become matters of concern over the line of that municipality, they are matters of State concern. Police powers are ordinarily matters strictly of local concern, and yet it is not hard to imagine that police conditions in any municipality might become of interest outside of the lines of that municipality, and if so, they would become matters of State concern. In Hurd's 1917 Revised Statutes

there are some six pages of enumerated powers which are given to the city council as purely matters of local concern. Yet I undertake to say that anyone can go through this list and pick out, not two, as I have, but many matters which may become matters of State concern and concerning which the State should have the right to make general laws affecting all the municipalities of the State and governing their action in that respect, and if that amendment prevails that cannot be done. We have two separate governments, each one supreme in its own field, and the State is forbidden to make any general laws governing any municipalities throughout the State, however desirable it transpires that such regulations might be.

I notice that the Constitution of Ohio, which was adopted under the inspiration of the Rev. Dr. Bigelow, who appeared before us here has a provision therein which reads as follows:

"Municipalities shall have authority to exercise all powers of local self-government and to adopt and enforce within their limits such local police, sanitary and other similar regulations as are not in conflict with general law."

In other words, even in that state, with the rather radical provision which they have, they still reserve to the state the power to enact general laws operative all over the state and upon all municipalities concerning certain actions which are admittedly of local concern, and in the somewhat more conservative provision of the Michigan Constitution, adopted by the Convention in 1908 and submitted to the voters and adopted in 1909, we find this provision:

"Under such general laws the electors of each city and village shall have power and authority to form, adopt and amend its charter and to amend an existing charter of the city or village heretofore granted or passed by the legislature for the government of that city or village, and through its regularly constituted authority to pass all laws and ordinances relating to its municipal concern, subject to the constitution and the general laws of this state."

Mr. JARMAN (Schuyler). What date was that?

Mr. MILLER (Cook). 1908; it was passed by the Convention.

Mr. JARMAN (Schuyler). Hasn't that been superseded by the Constitution of 1912?

Mr. MILLER (Cook). In Michigan?

Mr. JARMAN (Schuyler). I thought you said Ohio.

Mr. MILLER (Cook). No; I read the provision from the Ohio Constitution, but this is from the State of Michigan, which, in this respect, certainly has not been amended, Michigan not having had a Constitutional Convention since 1908. This provision in the Michigan Constitution, under which Detroit and other large cities are operating, is the same in effect as the one embodied in the committee report.

As to the National Municipal League, it is true that they have spent more than twenty years on this subject, and that, I think, is perhaps too long, and they have perhaps become biased by the concentration and the effort that they have put on this subject.

Mr. WOODWARD (Cook). Do I understand that the effect of the amendment which you have just offered is to give cities and villages compulsory constitutional home rule while the proposal as submitted by the joint committee is to give them constitutional home rule subject to legislative control? Is not the effect of your amendment to destroy the legislative control?

Mr. JARMAN (Schuyler). As to purely municipal affairs, yes.

Mr. DAVIS (Cook). The gentleman from Cook, Mr. Miller, pointed out quite effectively the difficulties which would arise in construing the limitation which has been suggested by the gentleman from Schuyler subject to laws relating to State matters, as to which matter is one affecting the State and as to which is a matter which affects the State as well as the municipality.

In addition to that I want to call the attention of the delegates to the significance of the amendment suggested by the gentleman from Schuyler in striking out the words "subject to existing or future laws." The committee's report grants to municipalities constitutional home rule subject to such laws as now exist or such laws as may be enacted in the future irrespective of their application and effect—that is, whether those laws affect State matters or local matters—and I want to call the attention of the gentleman from Schuyler that I doubt very much if this Convention wants to go any further in granting constitutional home rule than has been suggested by this committee's report. I also want to call the attention of the gentleman from Schuyler that in the constitutional home rule provision in the State of California, words were used similar in effect to those which have now been proposed by him, and in passing upon those words the Supreme Court of California referred to those words as a wild phrase. And wild is the phrase suggested here. The only limitation placed upon municipalities in the right to govern themselves shall be such laws as relate to State matters only, and I do not know of a more effective blow that can be given at this time to the whole subject matter of constitutional home rule than propose that those powers shall be broad enough and great enough that the laws of the State of Illinois shall not affect them except such laws as are laws affecting State matters, with all the doubt and all the questions that arise from the use of that particular phrase. I do hope, Mr. Chairman, that the amendment proposed by the gentleman from Schuyler will not prevail.

Mr. GARRETT (Winnebago). I wish to say, as far as my own personal feelings are concerned, and as far as my own city is concerned, Rockford, that this matter does not affect anything I may say or do in this whole subject. There is nothing personal, but it seems to me there is a question for us to decide in this Convention whether or not we wish to have the State a sovereign power or whether we wish to have the city the sovereign power, or the city greater than the State of Illinois. By adopting this amendment you make the city the sovereign power in all matters and all things without any respect or reference to any State law or what might be passed by the General Assembly. I, for one, am very much opposed to the amendment and hope it will not carry.

Mr. DUPUY (Cook). We find in the present Constitution, Section 22, Article 4, the provision that the General Assembly shall not pass local or special laws in any of the following cases. Then follows quite a list of cases, and then, "incorporating cities, towns or villages or changing or amending the charter of any city, town or village."

The point I want to bring out is this: That prior to the Constitution of 1870 there had been a vast number of cities, towns and villages incorporated by special charter. There was the greatest diversity possible in regard to the charter powers of cities and villages in the State of Illinois. That was found at this time to be a great evil. It was very desirous, in the opinion of the Constitutional Convention, effectively to get rid of this diversity. They put into the Constitution of 1870, our present Constitution, this provision I have read, and the Supreme Court has said, in construing this act in many cases, that the idea was to produce uniformity in the organization of cities and towns and villages throughout the State, and it has had that effect. This general incorporation law of cities and villages was passed which enabled any city or village to incorporate under it, and by means of that general incorporation act there has grown up a certain amount of uniformity in the matter of government of cities, towns and villages throughout the State. The purpose of the Constitutional Convention of 1870 was to bring that about. It was thought the better and more desirable thing. It is now proposed to entirely reverse and undo that system of government, to overthrow that theory completely and introduce a system here by which every city and town and village in the State can form its own form of government, prescribe its own charter and exercise its own powers, and under the amendment the law cannot interfere, on the part of the legis-

lative powers of the State, except insofar as it relates to State matters, and to determine whether any given matter relates to State or local matters will, in many cases, be an impossibility. There will be a great many cases where the matter in hand will relate to State and local matters in such a way that it will be impossible to say whether or not that particular thing is a local or State matter. It will, as a matter of fact, be both local and State in its effect and in its operation, and it will produce endless confusion and lead, in my opinion, to very undesirable results.

I am not in favor of changing the policy that has existed in the Constitution of 1870. I am in favor of giving cities and villages as large a degree of home rule as can be given consistently with their interests, but I am not, as the last speaker suggested, in favor of creating states within states or sovereignties within sovereignties and releasing the municipalities of this State from the control of the General Assembly of the State of Illinois. All these territories and municipalities are and must remain a part of the State, and I think that the amendment offered by the gentleman from Schuyler is a step in the wrong direction. I sincerely hope it will be defeated, and if we are to have anything on the subject, that the report of the committee will be adopted.

Mr. SUTHERLAND (Cook). I offer an amendment:

AMENDMENT No. 3.

Amend Section 1 by striking out the word "law" at the end of line 8 and adding the following:

"but the power to pass laws or regulations relating to the subjects of the Practice of Medicine, Health and Sanitation shall remain and rest solely in the General Assembly as at present, and such powers delegated to cities, villages and incorporated towns under existing laws shall continue in force until, and except as, modified by the General Assembly subsequent to the adoption of this Constitution."

Also by striking out all of lines 11 and 12.

Mr. SUTHERLAND (Cook). I offer this amendment because of apprehension that the language of this section may authorize the legislative authorities of cities, villages and incorporated towns to go further in matters affecting health and sanitation or regulating the practice of medicine than is now permitted by the cities and villages. Fears have been expressed to me by persons representing large groups outside of this convention that if this section should be adopted as it stands, it might be in the power of the city council, for example, to enact an ordinance providing for health regulation in one city at variance with the health regulations in other cities, which would make for confusion throughout the State. Also, it is pointed out, and it is well known that legislation is passed by the legislative bodies of cities with more haste and less deliberation than is done in the legislature of the State, and that the legislative bodies of municipalities meet weekly, or, at least, at very frequent periods, whereas the State legislature meets but once in two years, and in the case of the municipalities legislation that may vitally affect the people is often put through without proper consideration or less consideration than would be accorded to it in a legislative body.

Now, Mr. Chairman, it is suggested, and I conceive it possible, that in some community there might be a scientist of standing who, after considerable study, had arrived at a formula for a serum which might be innoculated for the cure of this or that disease, which was dangerous in its nature, and that the council might be induced to pass an ordinance providing for the compulsory innoculation of citizens with that serum. Now, Mr. Chairman, the practice of vaccination against small-pox is rather common, and yet the Supreme Court has denied to cities the power to enact vaccination laws which should be compulsory except in cases where there was established to be an epidemic. The fear is—and I must confess, Mr. Chairman, that I have some apprehension on that score myself—that if

this were written into the Constitution, which would give the grant of powers to municipalities from the Constitution and not from the General Assembly, that the courts would no longer hold that no provision of the Constitution upon which they have held compulsory vaccination laws invalid would hold as against a provision of equal standing under the same basic law. And so, Mr. Chairman, in order that there may be no doubt that there is no intention whatever to extend the police powers of the city in the direction of health and sanitation beyond the limits to which they now extend, except as further extended by the General Assembly later by subsequent law, I think it is desirable that this amendment should be adopted.

Mr. MILLER (Cook). The only persons, so far as I have been advised up to date, who have had apprehensions on this subject are the Christian Scientists. They fear that cities may exercise some power in regard to health which is inconsistent with their theories. They so expressed themselves before the committee, and they are the only ones, so far as I know, who have. It seems to me that their fears are groundless. Our Supreme Court holds that a law or an ordinance requiring vaccination as a condition of attending a public school was invalid because of that provision of the Constitution which guarantees to every child a free common school education. Now, our new Constitution I apprehend will contain that same provision, and the child will be just as thoroughly protected against any such vaccination in the future as he has been in the past.

This suggested amendment also has another vice, if I may use so harsh a term, and that is this: it incorporates in the Constitution by reference a part of the present statute of Illinois. That, it occurs to me, is a very imperfect way to draft a Constitution. In order, in future years, to find out what the Constitution is, we shall have to look through superannuated statutes, and perhaps we will get the right clause and maybe we won't.

Mr. SUTHERLAND (Cook). Does that language used in the amendment differ from the opening sentence of this section?

Mr. MILLER (Cook). Yes, I think so, because the "existing or future laws" refers to the laws now in force.

Mr. SUTHERLAND (Cook). The only language used in the amendment is "and such powers delegated to cities, villages and incorporated towns under existing laws."

Mr. MILLER (Cook). It is rather long, and the way I got it was that it referred to clauses 76, 77 and 78 of section 62 of the articles on cities, villages and towns.

Mr. SUTHERLAND (Cook). The gentleman is in error. The language is general and conveys the thought expressed in the leading section.

Mr. MILLER (Cook). Perhaps I am wrong in that. At any rate, Mr. Chairman and gentlemen, the language of the proposed section to adopt and enforce within their limits local police and sanitary and similar regulations which the amendment proposes to strike out and seeks to limit is certainly no stronger than the language of the present Cities and Villages Act which has been in force for all these many years without imperilling anyone. That language is as follows, in the clauses referred to, enumerating the powers of the city council:

To appoint a board of health and prescribe its powers and duties.

To erect and establish hospitals and medical dispensaries.

To regulate hospitals, sanitary and undertaking establishments, and to direct the location thereof.

To do all acts and make all regulations which may be necessary or expedient for the promotion of health or the suppression of disease.

It seems to me, Mr. Chairman and gentlemen, that, having lived with perfect security under those broad powers for many years, we can safely put so innocent language as this in the Constitution.

Mr. SUTHERLAND (Cook). I would like to ask the gentleman if it is his opinion that in the event that the city council should see fit to make compulsory, for example, an inoculation of some new serum upon all citizens, whether

or not the court would weigh as against that ordinance section 6 of the Bill of Rights, assuming that will be written in the Constitution, which says that the right of the people to be secure in their persons, houses, papers and effects must be held inviolable—whether the court would weigh section 6 and hold that to counterbalance any such ordinance under this power.

Mr. MILLER (Cook). My opinion is that it would, especially in view of the provision of the Federal Constitution along the same line.

Mr. SUTHERLAND (Cook). And that also the present section under article 8 of the Constitution would have the same effect as it has been held by the Supreme Court to have in matters of vaccination of school children?

Mr. MILLER (Cook). I have no doubt at all.

Mr. WOODWARD (Cook). I have no desire to see anything incorporated in this Constitution that will in any way abridge the rights of those who seem to be so apprehensive at this time that some of the provisions of article 1 are so broad as to affect their rights and personal privilege. I think, however, that the amendment offered by the delegate from Cook should not be adopted. I feel that there is no ground for it. At the time of the Supreme Court decision to which he has referred there was in force our present Cities and Villages Act, and clause 78 of that section authorized the city council to do all acts, make all regulations which may be necessary or expedient for the promotion of health or the suppression of disease. Notwithstanding those powers granted the city council, which our Supreme Court saw fit to hold the ordinance or regulations requiring the vaccination of children before them to attend school unconstitutional, and so I think, that there may be no fear of anything of that character being passed by the city council or being upheld by our courts in case they should see fit to pass such an ordinance.

I am opposed to having these powers amended on the floor of this committee in this hasty manner after the weeks and months of consideration that has been given to every word and line of this proposal as now submitted, and in so far as it may affect the medical practice or the medical profession, I think the delegates' fears are groundless. We have laws which provide that before anyone may practice medicine in this State it is necessary for them to acquire a State license, and I take it that after the State of Illinois has once granted a person a license and the right to practice medicine that no ordinance passed by any of the cities or villages in Illinois would in any way deprive the practitioner of his rights. In support of that theory I want to call the attention of the committee to a case decided in 189 Illinois, Hegan et al. v. The City of Chicago, in which that very question was raised. I happened to be interested in the case as it was tried in the Supreme Court, although it did not go up on appeal. In that case the circumstances were these: the plumbers of the City of Chicago had for many years been required to take out a license under a local order, and the State finally passed a law providing for the examination of plumbers, stating what they must do in order to procure a license to carry out their trade in the State of Illinois, and the city, notwithstanding the passage of that law, attempted to and did continue to collect license fees. I asked for an injunction restraining the enforcement of that ordinance, and it was held unconstitutional on the ground that the State having granted them a license it would be beyond the power of the city to require them to do something additional in order to carry on their business. I think that law would apply to this particular question in so far as it might affect the practice of medicine. I hope the amendment will not carry.

CHAIRMAN HULL. The Chair would like to state, for the purpose of the record, that the protest of the Christian Science group was presented to the committee, and in view of the fact that the grant of powers now in the Cities and Villages Act was so comprehensive, it did not seem to the committee that the grants of power under this particular section in this proposal was any greater or would add any injury to the personal rights of anybody, and as such grant of power is subject to State legislation, the

parties interested would be adequately protected. The question is shall the amendment be adopted.

(Amendment lost.)

Mr. SIX (Pike). I offer an amendment.

AMENDMENT No. 4.

Amend section 1 by striking out after the first word of line 6 all of line 6 to 15 inclusive, and adding the following:

The grant or delegation of power by the State shall be subject to the following:

The State is supreme in activities of municipalities or other agencies in which the State has a sovereign interest regardless of any grant or delegation of power herein.

The State has a sovereign interest in enforcement of laws and a fair election of officials in all parts of the State.

The supervision and control of education of the children of this State shall remain the duty and function of the State and shall never be surrendered.

The State shall determine the extent of all powers granted or delegated.

The State shall not be superseded in the right to make and enforce:

(a) Laws relating to property rights and obligations of municipalities or other agencies;

(b) Laws which determine or impose penalties;

(c) Laws providing for the removal of municipal officers or representatives exercising sovereign powers.

The general police power of the State shall not be surrendered. The State shall exercise the power of taxation for State purposes and constitutional provisions for separation of the objects of local and State taxation shall not be construed as a surrender of general State supervision of taxation for local purposes.

Mr. GARRETT (Winnebago). It would seem to me that this amendment is unnecessary, under the circumstances. This is now subject to existing or future laws. These different enumerations in this amendment are purely State matters as they stand, recognized as such, and if this section, as it states at the beginning, is subject to existing and future laws, it would seem to me that the amendment is unnecessary and mere surplusage. I trust that the amendment will not carry.

Mr. GREEN (Champaign). It has not been my purpose to say anything at all on this subject of home rule, but I feel that I would be derelict in my duty if I did not give expression to some ideas that I have that I believe this Convention will have more confidence in before it gets through with this subject.

I think that the gentleman from Pike has presented to this Convention just two or three of the multitude of riotous and insurmountable obstacles to constitutional home rule, and the thanks of this committee, in my judgment, before we get through with this article, will be voluntarily tendered him for having pointed out just the futility of constitutional home rule, and that is said without reflection, Mr. Chairman, toward any of the distinguished members of this committee, because we are all advised of the hard and laborious struggle which this committee had to produce something for consideration by the delegates to this Convention. It is but fair to say that we understand that you have presented what you thought is a conservative document, outlining a scheme of constitutional home rule, and if the State of Illinois wants that kind of policy, it ought to have it, and so far as I am personally concerned, it makes absolutely no difference individually to me. But as a citizen of Illinois, and looking into the future, and having looked just a little into the history of the past, may I be pardoned if I refer to just a few things that ought to cause us to stop and think before we launch out on this revolutionary policy of government. And I say revolutionary upon reflection. This American Republic was built

with the idea of the sovereignty of the State, and the State is the sovereign in all the things that affect the private citizen, save only those things which the Federal Government felt it necessary to take unto itself in order to make a strong union of the states, and except in those matters which the Federal Government, in the wisdom of the fathers, felt should be reserved to the Federal Government, the State was made the sovereign.

We started out in Illinois under a Constitution in 1818 and followed it with the second Constitution of the State, in ignorance and in darkness as to how best we could build these cities and develop these prairies, and down to the time of the Constitution of 1870 the legislatures of Illinois had run riot in passing special laws until they had grown in numbers so they outnumbered the general laws for the government of the people, and the libraries of the lawyers today are filled with the special laws, volumes of special laws passed by each succeeding legislature.

The gentleman from Cook, Judge Dupuy, pointed out another thing which those who wrote the Constitution of 1870 understood that evidently this Convention would not understand if we followed this policy.

Please understand me that I have no objection to the legislature of Illinois from time to time granting to cities within the borders of this State the right of self-government on those specific problems which confront the cities. I have no objection to that provision or amendment of the Constitution which gives the power to grant a special charter to the City of Chicago and I have no quarrel with the legislature making provision by statute, in addition to the enumerated items which it has already granted the city, to giving the cities the power to legislate for themselves upon certain subjects. But let us think for a minute what would result if without any more protection than this we turn loose the State of Illinois with its hundreds—yes, thousands of municipalities, each independent in its own sphere, except when the legislature took back the power which it had granted to legislate for it upon this great multitude of questions which necessarily enter into the problems of legislation that come to the State. And indeed, I am constrained to doubt whether you have even reserved to the State, with all the caution that undoubtedly actuated your minds and your motives, the right to act upon the great and important questions which the delegate from Pike has suggested in this hurried amendment which he has presented.

After saying that subject to the laws of the State the powers of the cities shall be supreme, you do, in several paragraphs, by language that seemed to me rather positive, grant authority upon certain matters which, it seemed to me, might well be construed by the Supreme Court as an election by the State that these matters were not within the general laws of the State. You enumerate, "To adopt and enforce within their limits local police, sanitary and similar regulations."

What is a police regulation? I can stand here from now until midnight and recount police regulations, or my idea of them, and it would only be a matter of suggestion to all your minds, and then you would know that you did not exhaust, with your limited vocabulary, the things that are police regulations. The city must have the power to control police regulations. That perhaps, is a little different from police power, police regulations being desired to preserve order and conduct business within the community, but its manifestations are without number.

And then, "to make any and all possible improvements." That means you have to have some way to make them. How are you going to make them? Does it include the element of levying taxes? Does it include the element of location? Does it define a public improvement? These are just a few of the questions. The amendment which is offered here furnishes a text upon which a half day's argument could be made against the wisdom of the State surrendering the sovereign power to the municipalities in those respects.

Third, you mention public utilities. I will not discuss for a moment whether it is wise or unwise to allow the things which are now defined by

the statute as public utilities to be regulated by the city. Let us assume that it is proper. Then, what is a public utility? Is a hotel a public utility? Is a livery stable a public utility? Is a drug store? A grocery store? A public utility, gentlemen, and you all know this is what the law defines to be a public utility and the decisions of the Supreme Court of Illinois since our own State entered upon the subject of regulation, has had occasion to determine whether or not certain things are public utilities within the meaning of the statute—

Mr. SUTHERLAND (Cook). Section C to which we are referring does not refer to regulation of utilities.

Mr. GREEN (Champaign). Well, it is broader than that. It simply refers to the construction, operation, etc., and regulate the exercise thereof. That is even a broader power. The point that I am trying to make is, who will define what is a public utility which the city may construct and own, lease, maintain and operate? Will the State define it or will the city define it? I was about to remark that there is now pending in the Supreme Court of this State a question of whether or not a dam across the Illinois River is a public utility, and it has been decided both ways up to this time, and I don't know which way it will be decided there.

The point I make is, before we consider amendments which go into the question of how we will administer or confer constitutional home rule, isn't there at the very threshold of the question the query whether it is wise for the State to grant constitutional home rule or whether it is wiser that they simply authorize the legislature to confer upon municipalities all the legislative power which rests in the legislature as the legislative body of the State. There is no question about the wisdom of many of these other things, sections 3, 4, 5, 6 and, indeed, if that is the desire or the policy, sections 7 and 8. Those things I have no quarrel with, but the great broad subject of changing the policy of government in Illinois from the sovereignty of the State to that condition which exists as between the Federal Government and the states, in which the State concedes that the city is supreme except where the State finds it necessary to act, that question, it seems to me, is bigger than that of the small problems that will arise in administering or in working out the details of what we mean by constitutional home rule and what we want to confer.

In other words, Mr. Chairman, in the light of what occurred and which prompted the writers of the Constitution of 1870 to put in those enumerated things in which the State should not pass special laws—and I invite you gentlemen to read them through and find enumerations of all the things which now different cities can pass different laws on and make different regulations concerning them, which would amount to purely special legislation if it had been done by the General Assembly, with all this experience behind them the Constitutional Convention of 1870, in order to cut off themselves from a condition of discrimination and confusion and inconsistencies between the laws of the various communities of the State, wrote in a list of enumerations of things upon which there shall be no special legislation.

Now, the adoption of this provision would amount to turning back the book, and not having the legislature pass special legislation would turn over to these cities the power in their own sphere and in their own jurisdiction to legislate for their own people upon these very same questions that the Constitution of 1870 especially said there could be no legislation upon. I believe that I speak the sentiments of the cities of Illinois outside of the great important city on the lake and perhaps some of these hundred-thousand communities—but the sentiment of the rural city of a moderate population—that we prefer that there rest with the General Assembly the power to make general laws upon these special subjects rather than that we turn over to these communities in which we live this riotous and uncontrollable deluge of opportunity for special legislation.

Mr. CARLSTROM (Mercer). I regret exceedingly that the gentleman from Champaign sees all of these dangers of which he speaks and which

the committee, in its wisdom, after weeks, and even months, of deliberation was unable to discover. It seems to me that the advocates of home rule, gentlemen, who come to this Convention with the hope that the municipalities in the State would receive from the Convention adequate home rule, as they term it, have surrendered all they came to ask. This provision, which starts out with the words, "subject to existing or future laws" subjects the authority granted by the Constitution to the action of the legislature, and if the legislature of the State of Illinois immediately after the adoption of the Constitution desired to do so, they could pass legislation that would nullify it. But it was recognized that the legislature of Illinois would welcome this provision for the reason that it would take from them the great burden of the mass of legislation which has been produced at the cost of great labor and time. It would give to the cities the power of local self government not conflicting with the exercise of the declared powers of the State, and I cannot see how any gentleman here can disagree with the logic of that situation. In other words, it avoids the necessity of action on small, unimportant matters. For instance, here is an act entitled, "An Act authorizing cities and villages to control the use of velocipedes on sidewalks." The legislative body of the State of Illinois has something else to do besides that. It ought to be, and will be concerned with the great problems of the State, especially if this Constitution is adopted, and I believe it will be a step forward in the progress of the legislation of this State if the legislature could be relieved of these minor details affecting cities and villages.

I believe that it is a correct principle that we should reverse the attitude of the Constitution of 1870 and previous Constitutions, which have held that cities have only such powers of local self-government as were specifically granted, and where there was a grant of power by the legislature it has been strictly construed, and the most minute action, sometimes essential to the exercise of the authority granted, has been denied on the ground that powers granted shall be strictly construed. This proposal was prepared by the committee in the interest of the municipality so that they could, under the authority granted, proceed to act in detail in furtherance of municipal interests as they might arise.

The expression "subject to existing and future laws" in the judgment of the committee, and in my judgment is practical and correct. The cities cannot exercise any power which the State inherently has in contravention of the action of the State. In short, the object of the language incorporated in this section is to authorize cities to act in an emergency until such time as the legislature may have the opportunity to lay down such rules as may apply. I believe it is a distinctive step forward. I believe that the cities and villages of this State which have gained immensely in power and size since the Constitution of 1870 should be recognized as bodies of people capable of self-government. And the dangers that have been pointed out here, Mr. Chairman and gentlemen, can only be based upon the assumption that the legislatures of the future will act entirely without judgment in the construction of this authority and similar provisions which may be made a part of the present Constitution. In other words, if we have reason to hope and believe that the members of the legislature of the future and the judges of the courts of the future will be men of intelligence, we have reason to believe confidently that they will construe and apply these provisions in the light and sense that the committee thought of them after careful consideration and preparation.

I do not believe that these dangers are at all apparent or possible from the adoption of this article. I believe, therefore, Mr. Chairman, that the amendment offered by the gentleman from Pike is without foundation or without necessity and should not be adopted.

I sincerely hope that this provision submitted by the committee will be accepted and adopted by the Convention substantially as it is. It has been most carefully considered. We have labored long and faithfully on this provision. Those of us who came here hoping for a larger measure of

home rule have surrendered much that we asked for, but we do believe there is just a measure of local self-government guaranteed here that is consistent with the powers of the State, and we believe there are no measures here which can be so construed as to be inconsistent with the freedom of action of the State. We are not creating a number of sovereignties within a sovereign state, but we are simply granting that cities are inhabited by people of sufficient intelligence to select legislative members in their own municipal bodies who can act for them intelligently from time to time.

Mr. MILLER (Cook). A few things have been said here that I think are so erroneous and show that the parties who stated them understand so little about the matter and have given it so little thought that I think they ought to be corrected. That is all.

So far as the question of municipal home rule is concerned, the matters covered by this special report do not even touch the things that the municipal home rulers are chiefly interested in. For instance, the local power of running and operating public utilities, complete autonomy in taxation, complete autonomy in debt-creating power. Those are the things that the radical home rulers are interested in. Under this proposal the municipalities have certain freedom of action. If they should all come to the legislature whenever their local conditions which differ from those in other cities require some special treatment different from that of some other cities, then we must preserve this power of classification of cities by reason of their location or population, or the number of babies in town, or something of that kind, and let each one run to the legislature and get what really amounts to local legislation to meet their needs. That is one system. If that is the right system, then we ought to vote this down.

But the fears that have been expressed here by the gentleman from Pike and the gentleman from Champaign are groundless and grow out of the fact that they have not studied this matter as much as I think they will—at least, as I hope they will.

This is not a matter peculiar to Chicago. It is a matter of interest throughout the State, and I am not going to speak very much in the matter, because there are many gentlemen here from down State who will speak one way or the other if the matter interests them.

Now, in the first place, the gentleman from Pike introduced an amendment wherein we reserve to the State the power to act in quite a large list of enumerated instances and preserve to the State the sovereignty in regard to those matters. Of course, the fact is, gentlemen, that this proposed article does exactly that thing. Aside from the fact mentioned by one of the other gentlemen that practically all of the matters mentioned in the pending amendment are matters recognized to be State matters, yet this provision reserves to the State the right to make general laws covering all matters touching municipal affairs, whether they are State or local, so that not a single thing mentioned in the pending amendment needs that amendment in order to reserve to the State the power to control them absolutely. In other words, this proposed article as it now stands says, in effect, everything, so far as I now remember, that is said in this proposed amendment.

Mr. GREEN (Champaign). If that is true, what is the use of adding lines 9 to 15? What are they in there for?

Mr. MILLER (Cook). The purpose of it is to make clear that those are considered by the Constitutional Convention and by the Constitution to be matters of local concern about which the cities and villages have the right to legislate.

Mr. GREEN (Champaign). Does that exclude that phrase, then?

Mr. MILLER (Cook). No, sir.

Mr. GREEN (Champaign). Are not all included if you do not say anything about that?

Mr. MILLER (Cook). That shows again that the gentleman has not read this thing.

Mr. GREEN (Champaign). Doesn't that carry everything without enumerating everything?

Mr. MILLER (Cook). I don't know what that question means, but it seems to me as plain as a pike staff. What that first paragraph says is the fact that a certain delegated power is not enumerated must not be held to exclude that power. I cannot see how there is any possibility of controversy over that particular proposition. There may be plenty of argument on the wisdom of local self-government, but on that proposition I do not see how there can be any controversy between any two persons.

The gentleman from Champaign who last spoke speaks of the police regulations and the horrible things that would happen if the municipalities are given police power. They have it now and they have had it for the last fifty years in language more comprehensive, or, at least, as comprehensive as this in this proposed article, Section 1, "Moreover, the State reserves to itself at all times to legislate by general laws concerning police powers of all cities, villages and incorporated towns."

He says, does this give the power to levy taxes? That demonstrates an absolute certainty that the gentleman did not read Section 2, which says: "Cities, villages and incorporated towns may assess and collect taxes and impose licenses and occupation taxes and borrow money for corporate purposes only as authorized by law." In other words, the committee was quite careful on that subject, fearful that some court might hold that the grant in the first section would carry with it the power to levy taxes or the power to license occupations or the power to borrow money. It is provided in Section 2 that they cannot move one single step in that direction except only as authorized by the legislature.

He then spoke of public utilities and asks who shall define what a public utility is. Why, the very first line in this whole article reserves to the legislature entire control over every subject granted to the cities and villages, to be exercised whenever the legislature sees fit. So that is another chimera.

Something has been said about lack of uniformity in the charters of various cities and villages. As I read the history of the former Constitution there had been a large number of special laws applying to various cities and villages enacted by legislators unfamiliar with conditions, and that was considered an evil. So far as uniformity is concerned, already we have 98 comprehensive sections in the Cities and Villages act granting the municipalities power to legislate over not 98, but several times 98 subjects, so that at the present time when you go into a city or a village with a machine, on horseback, by train or on foot you do not know what the laws are there. There are hundreds of instances where each one has the right to legislate locally concerning its own affairs. So far as that part is concerned, except in so far as it relates to purely local matters upon which it legislates itself, merely the frame of the government. It provides for the creation of the offices whose incumbents are to administer the affairs of the municipality and the manner of their election. That is the charter. We already have several different kinds of charters in this State, provided for not by special laws, although there are some of those, but by general laws. We have cities, we have villages, we have the commission form of government. There is not any uniformity in that now, and there is no danger in the lack of uniformity. Because of this vast amount of legislation which the cities may now indulge in, if indulgence it may be called, there is no such thing as uniformity in legislation in municipalities throughout the State.

Fears have been expressed by two gentlemen, who have spoken about the riotous and, I think, insane deluge of various kinds of legislation in various cities throughout the State. The gentlemen are quite too apprehensive. As already pointed out, this system has existed in the neighboring state of Missouri for forty-five years and no one, so far as I know, has ever complained of any such insane riot or deluge of laws in this state. In Ohio all the largest cities of the state have adopted charters, and in Ohio there are many more large cities than there are in Illinois. There is Cleveland, with 800,000; Cincinnati, with something more than half of that, and half a dozen other cities upwards of 150,000.

Mr. GREEN (Champaign). Do you mean to say that the adoption of a special kind of charter, like they have in Missouri and in Ohio, submitted through the legislature, that that kind of a provision in the Constitution is parallel with this one?

Mr. MILLER (Cook). It is true that in Ohio the charter must be submitted to the legislature.

Mr. GREEN (Champaign). There are general laws which cover the adoption of the charter. There are general laws which cover the formation of cities.

Mr. MILLER (Cook). In Ohio the situation is this: the cities all have these powers which are sought to be granted here and more, and in Ohio each city is permitted to adopt its own charter without regard to the legislature, and the same thing exists in Michigan. The principal cities in Ohio have adopted these charters and no one there complains of any such dangers as are apprehended here. The dangers are simply chimerical. They do not exist. All you have to do is to go there and find out. Go to Detroit or any of the other big cities in Michigan. No such danger, no such complaint—nothing of the kind.

Mr. GREEN (Champaign). May I call your attention to one that did exist—the zoning system, resulting in the segregation of the colored people in St. Louis, where but for the saving decision of the Supreme Court exactly that kind of a danger would have arisen?

Mr. MILLER (Cook). I do not know anything about the zoning system or the colored population of St. Louis, nor can I see how that has a single thing to do with this case. The zoning system is an entirely different matter.

Mr. GREEN (Champaign). It was claimed that under the special charter they had that power because under the Constitution it was authorized, but the Supreme Court fortunately checked it, which would not be the case under your provision here.

Mr. MILLER (Cook). Under this article there is no such danger, is there?

Mr. GREEN (Champaign). Yes, the danger is present here.

Mr. MILLER (Cook). Why?

Mr. GREEN (Champaign). There would be no such protection as existed in Missouri.

Mr. MILLER (Cook). In other words, I understand the gentleman construes this to authorize a segregation of the races?

Mr. SUTHERLAND (Cook). Are we discussing Section 8 or Section 1 on the amendment offered by the gentleman from Pike?

Mr. MILLER (Cook). I was about to remark that the gentleman did not read Section 8, which deals with zoning.

Mr. GREEN (Champaign). I do not mean zoning as to buildings.

Mr. MILLER (Cook). Well, if the gentleman has any apprehension on that subject let us add something to the zoning article. The fact is, gentlemen, that all you have to do is to go to our neighboring states where they have had this system in force several years and you will learn that all of these apprehensions are pure chimeras. So much for that. As I say, I do not care to take any great length of time in discussing this matter merely to point out that the apprehensions indulged in by these gentlemen, as shown by their remarks, simply show that they have not given the matter study, and the instances they point out in support of their arguments, each and all of them, are fully cared for by this article as presented.

Mr. SUTHERLAND (Cook). I am somewhat in sympathy with a part of the amendment offered, but it seems to me we are somewhat in great danger if we write into the Constitution a few specified exceptions to the power of cities which are reserved to the State. In so doing we are irrevocably granting to the cities far greater and broader constitutional powers, denying the right to the State to revoke those powers, than we would if we stick to the present language. I think the present amendment instead of improving it makes it worse.

Mr. MILLER (Cook). At the present time I believe there are fifteen out of the thirty largest cities in the United States which are now operating under this charter.

Mr. SIX (Pike). In the first place, the proposal as submitted leaves the base of power, in my mind, undetermined. It says, "subject to existing or future laws" The amendment has to do with power, not with regard to the policy. This provision of the Constitution is going to be based not on the wording here, but upon the words of the statutes that now exist. Further than that, a large power is in the executive of the State at the present time. This provision does not seem to take that into consideration at all. The executive does not have large powers. Now you brush aside those things by basing this language on the statutes and ignoring the executive branch and the judicial construction of certain of these laws. To my mind that leaves a base that is uncertain. The purpose of the amendment is to get a foundation and stay there. It seems to me to attempt to build as this article starts is to walk into trouble.

I have made a superficial examination of the constitutional provisions providing for home rule in the different states and have come to the conclusion that such success as they have had in home rule in such cities is due to judicial determination and construction of laws in that state. If they did not have the benefit of judicial construction in those states home rule would have failed long ago. Each new constitution seeks to write into the basic law their interpretation of those judicial decisions. The result is that they get an iron-bound document there, the thing which the delegate fears in this case, that we will bind ourselves so tightly that there will be no opportunity of getting away. That, in my judgment, is the experience of other states.

Let me read to you more carefully just what the amendment is, and let me say that in no home rule cities, as I recall it, are these powers expressly given. I want to put them in here for the purpose of preventing their being construed as within the powers of cities.

1. The State is supreme in all activities of municipalities or other agencies in which the State has a sovereign interest regardless of any grant or delegation of power herein.

"Sovereign interest," I realize, is glitteringly general, but I can depend upon the Supreme Court for a determination of that.

2. The State has a sovereign interest in the enforcement of laws and the fair election of officials in all parts of the State.

There might be some doubt about that if you make it subject to existing and future laws. I think the Governor has plenty of power today to reach down and remove a mayor if the mayor is notorious in his refusal to enforce State laws. I doubt whether he will have that power if you leave Section 1 as the committee presents it.

3. The supervision and control of education of the children of this State shall remain the duty and function of the State and shall never be surrendered.

That is a fundamental principle that I believe is safe to put in the Constitution.

4. The State shall determine the extent of all powers granted or delegated.

There is grave doubt as to who will determine that question in the report of the committee.

5. The State shall not be superseded in the right to make and enforce:

A. Laws relating to property rights and obligations of municipalities or other agencies;

B. Laws which determine or impose penalties.

C. Laws providing for the removal of municipal officers or representatives exercising sovereign powers.

I take it for granted that everybody will concede that those powers ought not to be given to any city.

6. The State shall exercise the power of taxation for State purposes, etc. If you are afraid that this list of retention of powers is a restriction,

all that is necessary is to put in another sentence reciting the fact that that list shall not constitute a limitation upon the legislature.

This amendment raises the question of power. Do you wish to keep the power in the State, as you now have it on these vital topics, or do you wish to base it upon a foundation such as is laid in this article? I think you cannot safely do it. I am not debating whether or not you ought to adopt the policy of home rule. I doubt whether we down State need much of it, but I have determined that if Chicago wants it I shall not oppose it. I think the amendment should carry.

Mr. GILBERT (Jefferson). I came to this convention as a delegate prepared to vote for any home rule that Chicago might want. The people in the district from which I come have no desire for any such provision in the Constitution. The people of Chicago have long demanded some sort of home rule, but so far as the country is concerned I know of no demand for municipal home rule. Perhaps there may be in some localities, but not in the particular section from which I come. I am not for having inserted in the Constitution any home rule provision, so far as I am concerned, except in so far as it may relate to Chicago or to such larger cities, if there be others, that want to embark in the line of municipal home rule. Therefore I am opposed to this section in its present form. I would vote for it if you would limit it to Chicago, but in so far as the district which I represent is concerned we are not interested in it and we do not want it.

Mr. BRENHOLT. I move that the committee rise and report progress.

(Motion prevailed.)

President Woodward resumed the chair.

Mr. HULL (Cook). The committee presents proposal 374 and reports progress. I move that the report of the committee be adopted.

(Motion prevailed.)

Mr. SHANAHAN (Cook). Move that the convention do now adjourn to nine o'clock tomorrow morning.

(Motion prevailed.)

Whereupon the Convention adjourned to Thursday, June 24th, 1920, at 9:00 o'clock a. m.

THURSDAY, JUNE 24, 1920.**9:00 o'Clock A. M.**

Convention convened pursuant to adjournment.

The President in the chair.

Prayer by the Chaplain.

THE PRESIDENT. The Journal of Tuesday, June 22d, has been placed on the desks of the delegates and is now subject to correction. There being no corrections proposed, the Journal of Tuesday, June 22d, 1920, will stand approved, and it is so ordered.

Mr. HAMILL (Cook). Pursuant to the notice given yesterday, I now move reconsideration of the vote by which the report of the Committee of the Whole on the Legislative Article was adopted by the Convention.

Mr. RINAKER (Macoupin). In view of the circumstances existing, I desire that the consideration of this motion to reconsider be now postponed to some day next week. I make the motion until Wednesday of next week, when it will be made a special order.

Mr. HAMILL (Cook). I think the motion made by the delegate from Macoupin is a wise one. I think in view of the temper of the Convention on this question, we will wisely leave this situation in status quo. I hope the motion of the gentleman will prevail.

(Adopted.)

THE PRESIDENT. Under the general orders of business, the Convention will resolve itself into a Committee of the Whole for the purpose of considering the matters ready for the consideration of the committee. The chairman designates Delegate Hull of Cook county to act as chairman of the Committee of the Whole.

(Chairman Hull presiding.)

CHAIRMAN HULL. The secretary will read the minutes of the meeting of yesterday.

(Minutes approved.)

Mr. WOODWARD (Cook). Before we proceed to discuss the amendment offered, I would like to have the attention of this Convention for a few minutes bearing on the remarks of the gentleman from Mt. Vernon.

It is quite evident that he and some other delegates may at that time have been laboring under some misapprehension as to this committee's report, its rejection and how it came to be presented in this form.

In view of the fact that I happened to be a member of both committees, I feel it is my duty to explain and perhaps save time in the further discussion of this proposal. The two committees who submitted this report are composed of fifteen members each, and of the Committee on Municipal Government I find on checking over the list that it is composed of twelve members from down State and three members from Cook county. On the Committee on Chicago and Cook County I find but nine members from Cook county and six down State. So of the thirty members composing these two committees, there are only twelve from Cook county, while there are eighteen representing the down State territory.

I might say in further explanation that this report represents the work and effort principally of the Committee on Municipal Government, composed, as I said, of twelve down State members. I want to say, so far as I am personally concerned, and I think I express the views of the majority of the members from Cook county who are interested in these proposed articles, that we have been given to understand throughout all our considerations in the committee that there was an earnest desire on the part of the down State members that some home rule proposition be given which would be State-wide and which would apply to municipalities other than the City of

Chicago; and I have all along in my work on the two committees had that in mind, and, as I say, such has been my understanding. I believe that has been the understanding of each and every member from Cook county who served on either one of these committees. There being no minority report submitted, I presume it is fair to say and to assume that this represents the views, the unanimous views of the thirty members constituting these two committees.

So I hope in the debate which will follow on this subject no further references will be made to the effect that this article is submitted presumably as a Chicago matter.

Mr. SIX (Pike). I move to strike out lines 6 to 9 and offer the following amendment as a substitute:

AMENDMENT No. 4.

Amend Section 1 by striking out after the first word of line 6 all of lines 6 to 15 inclusive and adding the following:

The grant or delegation of power by the State shall be subject to the following:

The State is supreme in all activities or municipalities or other agencies in which the State has a sovereign interest regardless of any grant or delegation of power herein.

The State has a sovereign interest in the enforcement of laws and the fair election of officials in all parts of the State.

The supervision and control of education of the children of this State shall remain the duty and function of the State and shall never be surrendered.

The State shall determine the extent of all powers granted or delegated.

The State shall not be superseded in the right to make and enforce:

(A) Laws relating to property rights and obligations of municipalities or other agencies;

(B) Laws which determine or impose penalties;

(C) Laws providing for the removal of municipal officers or representatives exercising sovereign powers.

The general police power of the State shall not be surrendered. The State shall exercise the power of taxation for State purposes and constitutional provisions for separation of the objects of local and State taxation shall not be construed as a surrender of general State supervision of taxation for local purposes.

Mr. SUTHERLAND (Cook). As I understand, the motion proposed is to strike out lines 6 to 9 inclusive, and to substitute "matter." I ask for a division on the question.

CHAIRMAN HULL. I think the motion is properly divisible. I will ask Mr. Garrett to take the chair.

(Chairman Garrett presiding.)

Mr. HULL (Cook). Gentlemen of the Convention: I ask your indulgence for a few minutes. The amendment offered by the gentleman from Pike, Mr. Six, it seems to me, is entirely unnecessary if offered in good faith, and ought not to be adopted. The amendment is so extraordinary in form that it is hard for me to credit the motives of the gentleman as being other than trying to kill the whole proposal. I do not like to make any charges of bad faith against anybody. I suppose it is entirely parliamentary if a man wants to do so, to kill a proposal by such an amendment, but it would be absurd to inject an amendment of that kind into the first section. The grant of power contained in Section 1 is, as you know, made subject to existing and future laws. That is on observing the laws of the State, and no other assertion is necessary.

The other provisions in the proposed amendment being equally unnecessary, the State has a sovereign interest in the enforcement of the law. Who will deny all laws are supreme that have to do with any crime that might be committed in this city? There is no attempt to get out from under any State law. That is absolutely reserved in the very first words of

the section, and it seems to me it does not need to be repeated. The supervision, control and education of the children of the State remains as it is. The State laws in reference to education are not superseded by this first paragraph, and the introduction of any such provisions, it seems to me, is equally absurd. Now, the law relating to property rights; the laws relating to property or State rights cannot be superseded, and their reservation is contained in the very first words of the section, so this is superfluous. Laws which propose or determine penalties; there is no effort to supersede laws which propose or determine penalties; they are determined by the very first words of the section.

"The general police power of the State shall not be surrendered." Is there any suggestion in the first paragraph that looks towards a surrendering of the general police power of the State? Personally it is very hard for me to see how that amendment can be offered in good faith. It seems to me it is an attempt to kill the whole proposal. If it is desired to kill the whole proposal, I think it ought to be done fairly and squarely as a motion not to adopt the first section with that particular amendment.

The gentleman from Champaign, Mr. Green, raised the bugaboo of the riot of local legislation which would arise throughout this State. It seems to me it was entirely bogey. We have now municipal ordinances that do not raise any such bogey. The Cities and Villages Act gives to the cities the power, for instance, to make and pass ordinances with reference to buildings; to make a building code. Do the ordinances in any two cities agree with respect to codes? There are as many building codes as there are cities that pass building codes. The Cities and Villages Act also gives power to pass ordinances in the matter of maintenance of streets. Is there any uniformity in those ordinances? Certainly not. They are as varied as the cities in the State unless they copied one another's, as they sometimes do.

There is a wide latitude given now in the Cities and Villages Act to the cities to pass ordinances, and there is no uniformity in those ordinances, and to talk about this proposal letting loose a widespread local legislation is, it seems to me, uncalled for.

So much for that amendment.

There was an objection, however, made here by one or two delegates to this Convention to having this section apply to all cities in the State; and I am informed that should the pending amendment be defeated another amendment will be offered proposing to have this article apply only to cities of 500,000 or 1,000,000, or cities over some particular population. I can understand how some members might not want to have the grant of power contained in this first section given to their cities under some misapprehension, as I think they are, as to the authority contained under such powers. I grant and understand that view, because that grant of power is immediate to the cities governed on their adoption, as it is.

So it occurred to me as a solution of their difficulties to offer an amendment later on containing an amendment so devised that it would get away from that difficulty—that is, to add to Section 1 a proviso of this kind: That this grant of power shall not be vested in the case of any city, village or incorporated town unless and until such city, village or incorporated town shall have adopted a charter in accordance with Section 9 of this article.

Now, if you will refer to Section 9 you will find that it provides that before a city can adopt a special charter of its own making the city authorities first pass an ordinance submitting to the people of that town the question as to whether they wish to call a charter convention, and if that ordinance is approved in the popular vote of that town then a charter convention will be called and an election of delegates to such charter convention will be had. The charter convention will adopt a new charter, and then that Section 9 provides when the charter is adopted it shall be submitted to the people of the town either for their adoption or rejection. In other words, under Section 9 ample opportunity is given for an expression of local opinion in that particular community, so that the power if this amendment should be adopted, the power under Section 1, would not be

vested in any town unless and until it adopted a charter, and by so doing the city would have ample powers granted under Section 1.

I think that would be a fair way of meeting the issue. We of Chicago do not want any home rule charter or home rule grant of power given to us which is not equally open to acceptance and operation by any other community in the State, and if there is a community, large or small, which wants to adopt a special charter under the provisions of this article and the public opinion sustains that proposal, why shouldn't they be permitted to adopt such a special charter?

I beg of you to consider this question, too, in connection with the general discussion, whether or not this aspiration for a larger local autonomy is well founded; at least represents private and well-settled honest convictions. If you slam the door in the face of such convictions you are simply making political capital out of the situation which comes up at this Convention. If you have safeguarded this proposal so it will require a majority of the voters in the community to adopt the charter, as you take over the grant of powers contained in Section 1, it seems to me you will have acted wisely and made a great aspiration come true, because you will have shown your faith in the people of your community.

Now, I am not one of those people who believe that we shall be simply a convention of cynics who mistrust everybody else. Perhaps a little cynicism is a good thing to prevent us being fooled at times, but popular government must rest on the character of our people, and if we are to build a Constitution based on a continual suspicion of the people at home we will be unfaithful to our trust.

This is a departure, this talk of mine, especially from the pending question on the motion of Mr. Six, but I want to present these prospective amendments to this proposal of mine, because I had a feeling that the amendment offered by the gentleman from Pike really goes to the vitals of this whole proposal, and if it were adopted we might just as well drop the whole subject.

Mr. DIETZ (Rock Island). The phrase at the beginning of Section 1, "subject to existing and future laws," was it the opinion of the committee that that phrase modifies every section in this proposal?

Mr. HULL (Cook). It does not modify Section 9. That is, it only partially modifies Section 9, otherwise it does modify—well, it modifies all of the powers contained in that particular section, that is what I would say more specifically.

Mr. DIETZ (Rock Island). It does not modify every section, then?

Mr. HULL (Cook). No, it does not modify every section. It does modify Section 9 in some particulars. If you will go to Section 9, which refers to the adoption of the charter, you will find so far as the charter relates to the city it supersedes the State law, but so far as the charter contains anything else it follows the State laws.

Mr. BARR (Will). Would you mind turning around this way so that we can hear you on your answers?

Mr. HULL (Cook). I said that so far as it relates to the city affairs it supersedes the State law, but so far as the charter contains anything else it follows the State laws.

Mr. DIETZ (Rock Island). Do you think the Supreme Court would be inclined to hold if, by Section 9 you undertake to define and declare that certain ordinances or certain acts by the city shall prevail over State laws in conflict therewith, and that certain other ordinances should not prevail where they conflict with the State laws, would hold that the first phrase in Section 1, referred to in the question, does not apply to any part of this proposal except the first section?

Mr. HULL (Cook). There is a particular provision in Section 9.

Mr. DIETZ (Rock Island). That is just what you were referring to; maybe I can make myself more plain by inquiring whether it is the judgment of this committee that the General Assembly under this proposal could be supreme in any field which it saw fit to occupy except the field particularly denied to it in Section 6.

Mr. HULL (Cook). Let me refer to Section 9, if I may refer to it. I don't know whether it will answer your question or not. The provisions of the charters or the amendments or additions to the charters or ordinances passed in pursuance thereof which relate to the organization of the government "of any city, village or incorporated town may provide for the calling of an elective convention to frame a city charter. The question whether a convention shall be called shall be submitted at an election held prior to the election for delegates. The charter framed by the convention and all amendments thereof shall be submitted to and adopted by the voters of such city, town or village in the manner provided by the convention. The election laws of the State and the powers and duties existing thereunder may, by the ordinances calling the convention, or by the convention, be made available for the purpose of the charter. The General Assembly may enact further election laws in aid of this section."

Mr. DIETZ (Rock Island). Is it your judgment that this would permit a city to set up a soviet form of government?

Mr. HULL (Cook). It would permit the city to set up any form of government that the citizens wanted to set up.

Mr. DIETZ (Rock Island). A soviet?

Mr. HULL (Cook). Call it soviet if you want to. I am not disturbed by words, socialism, sovietism or anything else. The question in every instance is, What is it? What does it represent? You cannot have a soviet government which would deny any rights to citizens in any substantive manner. You can set up any form of government you want to. The suggestion of sovietism is something that is entirely uncalled for. You are not frightening me by any remarks of that kind. That could not in any way abridge the rights of the citizens any.

Mr. DIETZ (Rock Island). May I assure the delegate from Cook county that I was not trying to terrorize anybody by the use of the word? I am simply trying to ascertain the committee's opinion of the proposal.

Mr. HULL (Cook). Words so often are used to raise up a bogey. I prefer to meet the facts.

Mr. GREEN (Champaign). I would like to inquire if your committee, in drafting this proposal, had under consideration or gave consideration to the many special charters in Illinois which were superseded by the general constitutional provisions in 1870?

Mr. HULL (Cook). Well, I know that there are a number of towns now and cities that have special charters.

Mr. GREEN (Champaign). Was consideration given to the fact that insofar as those special charters granted powers inconsistent with the general laws, the same became inoperative after the Constitution of 1870?

Mr. HULL (Cook). I do not remember that I heard that particular discussion.

Mr. GREEN (Champaign). What are your objections to your present Constitution in Section 1, which vested the legislative power in the General Assembly, and the decisions under that section that this did not preclude the General Assembly from relegating to municipalities local self-government, then calling your attention to Section 22, Article 4, of the Legislative Department of the present Constitution, which prohibited even the General Assembly from passing local laws; what have you to say whether or not this general provision was adopted as a constitutional provision, which your proposal submits; any of these special charters granted the cities prior to 1870, which were inconsistent with the present general law, could be revived and obtain over the general law.

Mr. HULL (Cook). I do not see how they could.

Mr. GREEN (Champaign). You don't see how they could?

Mr. HULL (Cook). No, sir.

Mr. GREEN (Champaign). Isn't the very language of this Section 1 designed and calculated to accomplish that very purpose, to revive the provisions of the special charters which became inoperative after the Constitution of 1870 was adopted?

Mr. HULL (Cook). No, sir.

Mr. GREEN (Champaign). For instance, the building of local improvements, and the manner in which it may be done?

Mr. HULL (Cook). No, it is not designed to revive any particular charter.

Mr. GREEN (Champaign). Are you aware that there are some provisions in the old charters in which the cities which would be entirely differently situated, minus the building of local improvements; that they obtained under the existing law?

Mr. HULL (Cook). I assume that there are some powers under the old laws which were different from the Cities and Villages Act, otherwise the city would not retain them; otherwise the city would have abrogated its old charter.

Mr. RINAKER (Macoupin). Under the language of the first paragraph on page 4, provisions of the charter or ordinance passed in pursuance thereof, relating to the tenor and compensation of officials shall prevail over the laws of the State in conflict therewith; as to such ordinances, what do you think the Supreme Court of the State would say?

Mr. HULL (Cook). They would be law in that particular community.

Mr. RINAKER (Macoupin). They would be law in that particular community?

Mr. HULL (Cook). Yes; when you are organizing your city government, you must have the power to determine the appropriate salaries for the officers created.

Mr. RINAKER (Macoupin). The question particularly is this: Suppose your charter provides that the governing body may by ordinance provide a tenure in compensation of the officials, as I assume would be a proper exercise of power under this paragraph, and after the adoption of this charter and the election of your governing body what is there, either in this proposal or anywhere else, to prevent the passage of an ordinance by which the tenure of office of the governing body shall be for life; of course you help yourselves if they passed such an ordinance.

Mr. HULL (Cook). I would consider that politically an impossibility. They could not. That would have to be in your charter.

Mr. RINAKER (Macoupin). No; if the charter simply provides that the tenure of office shall be prescribed by this, and you pass an ordinance in accordance with it, and the men who are elected to the governing body adopted the ordinance making themselves life officials, how can you help it, under this section? Where is your remedy?

Mr. HULL (Cook). I do not know if I can meet your question offhand. I consider the question itself so absurd in the life of the operation of political affairs, I hardly think I ought to have to answer it.

Mr. RINAKER (Macoupin). I would refer to some things I had heard of the political situation in Chicago, and from that there might be an inference there would be some political organizations which would pass such an ordinance.

Mr. HULL (Cook). The Constitution guarantees the republican form of government.

Mr. DIETZ (Rock Island). Does it guarantee it to the cities?

Mr. HULL (Cook). To the citizens of the State.

Mr. DIETZ (Rock Island). The city would have to have a representative form of government.

Mr. HULL (Cook). It would have to have a form of government.

Mr. BARR (Will). I was not here when this matter was begun and I would like a little information. Is it the theory or the purpose of this proposal that all powers that shall not be assumed by the legislature shall be inherent in the city?

Mr. HULL (Cook). No, it is not; that is not what it says. It says all cities, villages and incorporated towns now or hereafter incorporated or organized, either under general or special laws, are hereby granted and declared to possess full and complete powers of local self-government and corporate action for all municipal purposes,

The only powers granted are powers of local self-government. Any powers which relate to property in the sense of putting liens on property, or any powers that have to do with felonies, are not municipal powers. There is a fair degree of understanding as to what would be municipal powers. I don't think there is any question about that. There might be a question as to whether in a particular instance this was not a local power. Unquestionably in the exercise of certain powers the question would be raised and would have to be taken care of whether it was or was not a municipal power. The powers of taxation may, for instance, be questioned. We have attempted specifically to meet that question. There are some people who think that the power of taxation might be properly considered a municipal power, others who say it is not, so that we have specifically mentioned that here as a power which can be exercised only in accordance with the law.

Mr. BARR (Will). There are certain powers which it is difficult to determine as to whether they belong to a local government or do not belong to it?

Mr. HULL (Cook). Yes, there are powers on which that question might arise.

Mr. BARR (Will). But as to the adoption of powers pertaining to local government, the city would have all powers which were not assumed by the legislature, which were not legislated on by the legislature in any way. For instance, the question was raised, and was raised in Ohio and in Missouri in the opposite way, as to whether police regulation with reference to speed on the public highways was a power of self-government, so that in Ohio it would supersede the state law.

Mr. HULL (Cook). Because in Ohio a power which is a local power is given exclusively to the city, and I believe in Ohio they decided it was a local power and in Missouri they decided it was a local power but that it was a matter which concerned the state. We have simply tried to get away from these conflicts by making all these powers subject to the state power.

Mr. BARR (Will). You enumerate two or three things that are designated as a part of the powers hereby conferred. Now, were those enumerations made because it was not sure in the minds of the committee whether or not they were included in the definition of Section 1?

Mr. HULL (Cook). No.

Mr. BARR (Will). What was the purpose of that?

Mr. HULL (Cook). Let me explain the development of this particular section. The Chicago committee did not have those particular specifications in the first section. The Committee on Municipal Government in their first recommendation adopted the Ohio theory, the other theory with reference to local powers; and, because the question might arise as to what powers were local powers and what not, they specified quite a number of things. When the sub-committees of the two committees got together in the process of give and take these particular specifications were included in Section 1.

Personally I am of the opinion that they are unnecessary, that they do not need to be put there, but I think they are illustrative of what is the character of local powers and are properly in there for the purpose of illustrating what is the character of the local power.

Mr. BARR (Will). In other words, the placing of these particular enumerative powers is a sort of compromise on the part of the committee to satisfy certain members of the committee, by including them in the definition of Section 1, I presume.

Mr. HULL (Cook). That is a fair statement. I don't know whether we should say compromise. The members of the Chicago committee saw no objection and saw a reason why they might serve a very useful purpose, and some of the members of the other committee thought they ought to be in anyway. We compromised, if you call it compromise, by putting them in.

Mr. BARR (Will). In Section 9 provision is made for a convention to adopt a city charter. That would be a sort of open constitutional convention, I presume?

Mr. HULL (Cook). Yes, you can call it that if you wish.

Mr. BARR (Will). In other words, as outlined in Section 9, that convention within the limits of this provision, I presume, could adopt any kind of charter it might see fit to suit the conditions and might make any such provisions in the charter, except the provisions and regulations that had already been taken over by the legislature or which might thereafter be taken over by the legislature? In other words, they could provide fully for local self-government within the limits of the restriction in Section 1?

Mr. HULL (Cook). Well, I presume the charter simply would show the form of government. They might go further and adopt other provisions which would not be strictly provisions of an organization, but the other provisions would be strictly within the limits of Section 1, as you suggest.

Mr. BARR (Will). The theory in drafting these city charters would be similar to that in drafting the Constitution. It would be the fundamental law. Under this provision it could be legislation in the same sense that the Constitution is in reference to the State.

Mr. HULL (Cook). I presume there could be ordinances passed with reference to other than organization questions.

Mr. BARR (Will). I understood you to say, Senator—I am asking these questions to satisfy my own mind and not to criticize your position at all—in your view the limiting clause in Section 1, subject to existing or future law, applied to all sections of this article, with the possible exception of Section 9 in some respects?

Mr. HULL (Cook). I should say so.

Mr. BARR (Will). Do you think notwithstanding the act in Section 4, for instance, where the term “in accordance with the law,” and in other sections where the term, “as provided by law,” is used, the Supreme Court would probably hold that this limitation could be extended practically to apply to every provision of the article?

Mr. HULL (Cook). Section 4 you refer to?

Mr. BARR (Will). Yes.

Mr. HULL (Cook). That is a specific grant of power, but it is limited in this respect, that the power to make local improvement must be exercised in accordance with the method prescribed by law. Does that answer your question?

Mr. BARR (Will). Yes, but the authority given in Section 4, must be exercised in accordance with the law; if there was a statute providing for the method of levying assessments, wouldn't that apply under Section 1 without making the provision in Section 4 that it should be done in accordance with the law?

Mr. HULL (Cook). Perhaps Section 4, if I get your question, is superfluous. I mean if there was a statute, that would be exercising their power in accordance with the statute, but the power to make local improvements by special assessment involves putting a lien on property, and it was one of those matters with reference to which we felt that the question might arise as to whether it was a local power and that it had to be specifically mentioned in the article with a certain definition given to what that power was, and that that power would have to be in accordance with the law. It is exactly the same as the present situation.

Mr. BARR (Will). I was wondering whether the same section providing the act should be done according to law might not indicate that Section 1 did not apply to all sections beyond 1?

Mr. HULL (Cook). I perhaps did not understand your question as to Section 4. I think this Section 4 is a fair instance of what you have in mind in reference to the other instance. There are certain powers with which it was felt that the article should be specific, for instance, Section 2; those are put in specifically to make the matter clear with reference to those powers, what they are and how they can be exercised, rather than to leave them as powers under the general grant of Section 1.

Mr. JACK (Jasper). As I understand this proposal, all of it except Section 9 applies to all cities in the State?

Mr. HULL (Cook). Applies to all cities in the State, yes.

Mr. JACK (Jasper). Supposing under Section 9 a city shall adopt a charter, and that charter shall then supersede all the other sections of this article?

Mr. HULL (Cook). No; that charter would be simply the form of government and the organization of the town or village. It would set up a form of government. The powers of government to be exercised in accordance with the provisions of this article. The powers of taxation to be exercised in accordance with the provisions of this article; the powers of special assessment to be exercised in accordance with the provisions of this article; and all other powers here specified would have to be exercised in accordance with the provisions of this article, and the general powers would be derived from Section 1.

The charter would, broadly speaking, be a form of government, just as you have now the commission form of government. You have a different definition, that is all. The authorities exercise local power under the commission form, and do it as you did under the old form of government, that is, Mayor and City Council, and that Section 9 is intended to give to the cities the power to frame up their own organizations in the governments of the incorporated cities, villages or towns.

Mr. JACK (Jasper). Would the charter adopted by the city set up in it its charter powers?

Mr. HULL (Cook). It might set up the powers.

Mr. JACK (Jasper). That is the reason for the clause on page 4 which says "in other matters the charter or ordinance passed hereunder shall not be in conflict with the State laws," isn't it?

Mr. HULL (Cook). That is the exact reason, so far as the charter attempted to give powers to the agencies created by the charter, those powers would have to be exercised subject to the State law.

(Chairman Hull presiding.)

Mr. FIFER (McLean). Long before this Convention assembled, I think it was understood that Chicago would ask for a special local self-government, and I believe that it was the wish of every member of the Convention down State that Chicago should have just about what they wanted, provided it was not so rabid that it would interfere with their own progress and growth and touch all of the State.

Now, instead of a special provision applying to the City of Chicago, we are confronted with a proposition affecting all of the cities of the State. Now, I wish to say to our Chicago friends that so far as my city is concerned, we don't want it. We feel that we do not need it, and I very readily understand that by reason of the size and the growth and the probable expansion of that great city, the City of Chicago may need some special provision in regard to your local self-government. Now, if this proposition is so good as our friend from Chicago who has just taken his seat has argued, why not add a provision that it shall apply only to cities having one million population.

Now, surely you of Chicago would not want to yoke up the down State cities with Chicago and give them something that their people do not expect and do not want. If it is such a splendid provision as the gentleman from the City of Chicago argued, let us make it for that city only. One reason among others that I do not want it for my city is this: If this goes into the Constitution, then every city in the State of Illinois will be authorized to call what is in effect a constitutional convention, because a charter is the Constitution of the particular city that adopts it. It will be necessary to have numerous elections. In the first place, cities, all of the cities, will have to vote whether they want a constitutional convention, because charter and constitution are terms used interchangeably; the great Magna Charta was in effect a constitution, yet in our days it is called a charter. Sometimes our Federal Constitution is called the Great Charter of Liberty, likewise the several constitutions of the States. So the charter of these cities would be in effect its constitution, and after the question is submitted and the people vote and they want a constitutional convention in their city, then the delegates must be elected to frame that constitution. And possibly the legis-

lature might pass a law submitting it to the people as to whether the draft will be accepted, the same as this Constitution. Now, that will entail a very large and unnecessary expense. Lawyers must be employed to draft these constitutions, and since 1870 the purpose of our present Constitution has been from that time to the present not only the policy but the necessity in Illinois to have uniform laws, and every city, if this becomes a part of the law, will make their own charter, and no two of them will be alike. And you will load the courts of the State with litigation. Every charter will have to be framed ultimately as to the rights of the particular city under this law, as was the prevailing condition at the time when special charters would be granted to cities by the legislature.

They quit that, to pass one law under which the cities thereafter formed must be organized. The many of them, and the bulk of them, I take it, have given up their old special charters and have adopted a charter and organized under the general law, and are now doing business under the general law.

Now, I say in all kindness to our friends from Chicago, speaking for myself and my people, we do not want this law; so far as I have made inquiry, there is no city down State that wants it, excepting a very few that desire it.

Why, then, when we are willing to give you everything you want within the bounds of reason, should you ask us to accept something along with you that we do not want and do not need, and it would come to our people like a clap of thunder out of a clear sky if this should be adopted and imposed on the people down State. It was unexpected when we came here and it was supposed that we should come here in the light of the experience that we had, fifty years experience with the present Constitution, and whenever it needed amendment we would amend it. That was the purpose, and not to go in and cut it all to pieces simply because we had the power to do so. We were to do that which would meet present demands and requirements of the people of the State. That is the understanding I had when I came here. Now, if you don't like this to apply to your city alone, go and formulate just what you think you ought to have, and for one I will vote for it, unless it is so radical it will injure you and through you, in my judgment, the remainder of the State.

If this is a good thing for all cities in the State, including Chicago, why not take it to yourself and live and prosper under it, as I hope you will do if you adopt it.

If you don't want it unless we go with you in the proposition, then get us something else, for I think I can speak for every delegate for down State when I say that we will be exceedingly liberal to you.

There is a point beyond which, of course, we would not go. Try us out; get what you think you ought to have and we will look it over, and we shall deal most generously with you, but don't seek to force on us something we don't want.

I don't care about these other provisions. It is only a limitation, in effect, upon the people of the cities to ratify their charter. I don't propose to let every city and corporate village and town have carte blanche to make such a charter as they please. I want to have a string on them. I want them to be uniform, the people of the cities and towns are getting along all right, generally speaking, and don't want anything. They would be surprised if a proposition of this kind was forced on them, in my judgment.

Mr. CARLSTROM (Mercer). Mr. Chairman and Gentlemen, I want to say in justice to the gentlemen from Cook county that the argument made by the distinguished delegate, the former Governor of Illinois, is based on false premises. The gentlemen from Cook did not try to force this on the down State cities, but we who are representing down State cities went to the gentlemen from Cook and asked them to cooperate with us.

It was the representatives from down State who secured the joint report of the committee. It was on their appeal. We do not wish the delegates here to labor under the false impression that Cook county or the gentlemen representing the City of Chicago have sought to foist anything on the down

State cities. I don't know where the gentleman from Bloomington obtains his information that none of the down State wants a provision of this character.

I am in position to say to you that the League of Municipalities of Illinois, which represents 200 thriving cities in the State outside of Cook county or the City of Chicago, are asking for this proposal, that we are seeking to present to you here. It does not involve, in my judgment, any unreasonable or unnecessary expense in the calling of a convention.

True, a charter convention can be called, but I think an amendment which was suggested by Mr. Hull when he had the floor is one that perhaps ought to be adopted, so that the general laws of the State will apply and continue to govern the cities and villages until and unless they shall adopt a charter under it that permits them to frame their own government.

Gentlemen, the experience of the states in some of the thirteen states of the Union where home rule has been granted is a salutary one. The progress of home rule in most states where the charters have been adopted has been to a very much greater degree than in other cities of that state, because when they are permitted to frame their own form of government and develop their energy and ambition they do so under a provision similar to this.

Mr. FIFER (McLean). Will Chicago accept this for themselves alone?

Mr. CARLSTROM (Mercer). I cannot answer the question. I do not represent Chicago.

Mr. FIFER (McLean). I want to propound that question to the honorable gentlemen or the other members of the committee from Cook county.

Mr. CARLSTROM (Mercer). Mr. Chairman, I yielded to the question, but I think otherwise I have the floor. Discussion of that kind might be had at some other time. I say I don't know whether Chicago will accept this alone or not, but I tell you gentlemen from Cook county and down State we don't want Chicago to accept this alone. We think it is progressive and modern, and we have the right to live in that principle as well as you people in Chicago. We think it is a correct proposition of government.

It was stated yesterday with reference to legislation by itself that it relieves also the great burden of legislation, it develops initiative in local self-government by participation in local self-government. If there is anything in the world that we need in the United States it is to increase the participation of our citizens in governmental affairs.

I don't want any gentleman to believe that the gentlemen from Cook county have foisted anything on the gentlemen down State, for we from down State went to the gentlemen of Cook and asked them to let us in on this proposition. That is the situation that this proposal is in now. We hope and trust that there will be unanimity of interests represented by the vote here which takes into consideration the possibilities of all these cities of Illinois. I say to you that there are at least 200 cities organized in Illinois—thriving, progressive cities—who want it. I don't know whether Bloomington wants it or not. Under the proposed amendment, as Mr. Hull suggested, Bloomington does not have to take it, or any other city or village or incorporated town in the State need not accept the provisions of Section 1. It is up to them under that amendment whether they adopt the charter or not. Unless they do the laws of the State, under the Cities and Villages Act, will continue to govern their local municipal affairs.

The suggestion has just been made by the gentleman who spoke preceding me that there was a number of charters passed in 1869 which have been surrendered since the adoption of the Constitution of 1870. That is easily understood, because after 1872 the legislature which promised to change the charters and changing governmental conditions made it necessary to change the powers granted under the charters at that time, which did not contemplate the progress of the cities of Illinois as we contemplate it. Therefore they had to surrender their charters and come under the broader powers of the Cities and Villages Act.

There are twenty-three cities and villages in the State of Illinois which operate under the charters granted to them by the legislature. One of them is in my county, the City of New Boston. They call it a city, but

there are only 300 people there, but they claim a great distinction because Abraham Lincoln laid out the town, beyond the river at that time, in the course of traffic and commerce. I sincerely believe that the people down State and Chicago do want this thing. I believe with the optional privilege in it not only can it hurt no one, but we will be upon the way for a development in the State of Illinois equal to that in those states in which the rule has been in progress. I do believe, gentlemen, that the amendment of the gentleman from Pike is destructive of the whole proposition; if it should prevail we might as well go to the next order of business.

Mr. DIETZ (Rock Island). I understood you to say that under the old charter issued to cities the legislature was powerless to legislate in conflict with the charters.

Mr. CARLSTROM (Mercer). I said that they cannot amend and give additional rights or authority to the city government which had not been granted prior to the Constitution of 1870.

Mr. DIETZ (Rock Island). The question I had in mind was this: whether it is the opinion of the committee that under the section giving the charter convention power, if a charter was adopted today not in conflict with the present laws of the State, whether the State afterwards could enact any valid law in conflict with that charter?

Mr. CARLSTROM (Mercer). My answer to that, Sir, with some regret I make, is that they absolutely could. That is the objection to this provision by the representatives of the municipalities. It is evident from the language they put in it, being subject to legislation at all times, that the legislature can take away any and all powers assumed to be exercised by a city at any time under this provision.

Mr. JARMAN (Schuyler). I only want to say a word in reply to Governor Fifer's statement so as to indicate the position of the committee.

The Governor says that there is no demand from the down State cities for this home rule provision, and also says that Bloomington does not want it. Now, the position of the committee was that there was the State Municipal League demanding a home rule provision and they formulated a provision which is represented in Proposal No. 346, and that proposal, formulating the State League of Municipalities, demands, would be absolutely without any supervision by the legislature. Now, then, it appears that the city of Bloomington, represented by its Mayor, A. E. Jones, and A. J. Ickerson, is a member of the league, demanding home rule for Bloomington, which is much broader than the proposition that is before us here today. So I take it that Bloomington is demanding it, and demand much more.

Mr. KERRICK (McLean). You say the Mayor, A. E. Jones, of Bloomington, is a member of that league?

Mr. JARMAN (Schuyler). The city is a member of the league.

Mr. KERRICK (McLean). Yes.

Mr. JARMAN (Schuyler). I believe Mr. Jones represented it at a convention.

Mr. KERRICK (McLean). Do you happen to know how Mr. Jones voted?

Mr. JARMAN (Schuyler). No, I do not.

Mr. KERRICK (McLean). He voted against it.

Mr. JARMAN (Schuyler). No, I do not. If Bloomington don't want it—I understand from a member of the league on my right that Mr. Jones did vote for it.

The Governor claims that we want a uniform system here. The legislature passed a commission form of government and Bloomington accepted that, which is different from the organization of cities under the general law.

I want to say this further, the committee has gone into all of these details and it is not possible for the delegates to this Convention, nor was it possible for the members of the committee, to grasp all of these details in one hearing. Now, all I ask, in fairness to the committee, is that this Committee of the Whole on the first reading of this proposition adopt this proposal, and then it can take it under consideration until the second reading and then vote it out if they want to.

I appeal to the members of this Convention not to dispose of this matter as proposed in this amendment now, because I think if you do you will regret it hereafter. That will give time for each member to consider and weigh all of the details in this proposition, and then if it is finally found it is not wanted there is plenty of opportunity to vote it down.

I think, as has been suggested, the proposition of this amendment suggested by the Chairman with reference to the provision in here that it may be adopted by any city wanting it and any city not wanting it can refuse to adopt it, I am frank to say that that was my position in the beginning, and that was included in the proposition I introduced here in Proposal No. 346, with reference to the powers and adoption of the charter it should be optional with each city on a referendum vote.

I am very much in favor of the suggestion made by the gentleman.

Mr. MOORE (Macon). Is this the report of the Cook county committee?

Mr. JARMAN (Schuyler). A combined report of the two committees.

Mr. MOORE (Macon). Do I understand that this is a final report and that we shall have nothing further?

Mr. JARMAN (Schuyler). This is a partial report on the subject of home rule. If this should be adopted it would be necessary for the Committee on Chicago and Cook County Affairs to make a further report on some matters which are peculiar to Chicago and Cook county. Those matters are more particularly matters which relate to the consolidation of local government establishment, requiring a special constitutional provision in order to fix the consolidation.

Mr. CORCORAN (Cook). I think on that point a further report should be made. It might affect my voting on some part of this proposal. I do not know whether I would vote to adopt Sections 3, 4 and 5 unless I knew what the financial arrangements were to be to purchase or to use in the condemnation of municipal utilities. Before I vote on this proposition I would like to know how we are going to do that, what financial arrangements they are going to make.

That is one of the vital questions I would like to know about, to decide whether I would vote to take it over or not.

Mr. MACK (Hancock). Just a very brief word in regard to this matter. In regard to your committee first, Sir, I want to say in reference to that for this committee that the entire Convention has a due amount of respect. We believe you have brought here the best you could under the circumstances, but we also believe that the principles involved in this proposition are at least very fundamental and very basic, and it would be proper for every man in this Convention to consider seriously this matter.

It is not a question, gentlemen, as to your city or mine, your county or mine, today or tomorrow, or the next day. I want to say, gentlemen, that long after our voices have ceased to ring in this hall, when they are heard no more in our favorite haunts forever, I say to you that these will be the basic, fundamental principles as laid down here. I want to say to you that there are three vital points concerning this proposal on which I wish to address you.

First, I want to say that the principles laid down in this proposition are fundamentally not inconsistent with our principles which we entertain in regard to self-government. I believe that they are not inconsistent with the principles of self-government of a great commonwealth.

Second, I adhere to the principles of the Constitution of the State of Illinois that provide that it retains its legislative power except when vested in your legislature. In regard to the cities and villages, when you want to put a distinct limitation on that power under that provision I believe that the legislature has laid down certain fundamental powers giving to the cities and villages authority and that applies to the entire State excepting in so far as charters exist as to portions thereof not inconsistent with the general statutes of the State of Illinois on the incorporation of villages and cities.

I believe further, Mr. Chairman, we should be opposed to it, and I am opposed to it, for the reason I do not believe that the power which is given

by the Constitution to the legislature should be delegated, either by us or by the legislature, to a body in a city or a village.

Consequently I adhere to the principle since 1870 as to the method of delegating certain powers and withholding certain others, to every city and village throughout the State of Illinois. I believe it has worked well and we should adhere to that principle.

Third, I do not believe, gentlemen, if we get this into the great State of Illinois and carry it to the people they will awake to the situation of the wonderful powers conferred on them and get in touch with the situation, for years to come.

I want to say to the gentleman from Mercer county I do not believe the people from down State are asking any such thing. In fact, gentlemen, when we came into this Convention and listened to the discussion all night long from the able and learned gentlemen from Cook county, all we comprehended and attributed to it was a reference to this great city by the lake.

I, like the ex-Governor, want to give you everything you want. And while we have been misunderstood in relation to our acts, in Cook county, and maybe some of the members have not clearly understood us, yet I want to say to you it has been our intention and our desire and our hope and our ambition to always do the right thing; notwithstanding the misunderstanding which has existed between us, we shall continue to act according to the best dictates of our conscience. We say to you along the lines suggested by the gentleman from McLean county, we are willing to vote for it and give it to you and say it may apply to your conditions up yonder in the great city, but the little villages down State don't want it. So I want to join with the honored member from McLean county in saying if the gentlemen from Cook county desire this, we will vote for it, but I am thoroughly satisfied that we do not want any such radical departure from our principles of government injected into the Constitution of the State of Illinois as to give the people of every city and village the right at any and all times to meet and vote such a constitution as they see fit, and perform work such as we are performing here.

I am satisfied that we are not ready for that. One word more. It comes to my ears indirectly, suggested as a possibility, that in the past concessions have been made and given. To me, coming into this Convention, there are certain fundamental principles so fundamental and so sacred to me that I cannot depart from them. I am glad you brought this thing and placed it before us. I think you have positively done the very best you could do under the circumstances. Now, having brought it in, it is our duty and our responsibility to consider it; insofar as it departs from the fundamental principles of law and government laid down and considered wise, safe and sound, we cannot concede to any theory of anybody or any class and yield to the principles relating to the same, but shall insist on maintaining the principles of the old Constitution of 1870, which have been safe and sane for seventy years, and maintain the principles laid down in the statute under this Constitution, that the legislature is the arbitrator of the cities and villages throughout the State of Illinois, and to that legislature we must appeal for a necessary control on the cities and villages' power, which will permit us to function for years and years to come. We will leave it as we found it, with the legislature, believing that the legislature, which every two years comes from the people and every two years goes back to the people, can handle the matter, and by the same token before we leave the Convention we will find that we will get into many dangerous difficulties on this proposition if we get away from the principles of the ages. A great power must be conferred on the legislature.

Mr. GARRETT (Winnebago). What do you mean by concessions being made?

Mr. MACK (Hancock). I mean this: I don't know but what it is possible that there are men on one side, certain members of this Convention who desire to go much further than you have gone in this proposition. There are men who do not desire to go so far. It would not be possible for me here to discuss who wanted to go this far and who desired to go

further, who was conservative and fell short of this proposal—what I mean to say is, I find no fault with the individual, but when it is put up to us to pass upon it, each one for himself, we must determine according to the principles of fundamental government which we find exist, and we cannot make such concessions. I for myself say I cannot. Speaking with my colleague, representing 100,000 people on the Mississippi River, I say No, we don't want it.

Mr. GARRETT (Winnebago). Your term of concession was not from one committee to another?

Mr. MACK (Hancock). No, sir; it was the difference between the forms of government.

Mr. GARRETT (Winnebago). You mean with reference to absolute home rule or statutory home rule?

Mr. MACK (Hancock). It was the radical and conservative, in between the two.

Mr. TRAEGER (Cook). When this joint committee made this report eighteen out of thirty were from down State, and as a member of the Chicago and Cook County Committee I believed when a majority signed this report that they believed that the down State wanted home rule for its cities and villages, as well as Chicago. I want to say for one of the members that I do not want to force home rule on the cities and villages down State if they do not want the same. It was simply a matter where the committee was in the majority and we believed it was what they wanted. Our honorable chairman suggested a while ago that an amendment might be introduced which would limit certain cities, limit them according to population. I do not know whether the cities and villages are satisfied down State now under the government that they operate under, or function under, but some of the citizens of down State from various cities have informed me that they were not satisfied with the performance of the government, and some of them have gone to the commission form of government, which, while not the same as home rule, is a change from the old system.

But I want to say again that the down State members, if they do not want it, I am as one ready to vote with them and not have them have it, or limit it so that they are not forced to take it.

Just a few words along the line of the amendment. This amendment is suggested, or made, rather, by the delegate from Pike, and to my mind it should be defeated without a question. If it should pass we would be neither where we were now under the Constitution of 1870, nor would we have home rule. We would have a conglomeration of something that all the Supreme Courts of the United States could not wrangle us out of. If we want home rule for the cities of Illinois or for Chicago only let us apply it where the majority wants it applied. Give us home rule or let us remain where we are today. Do not place us in a position by adopting this amendment that gives us neither one nor the other.

This proposition has been explained very thoroughly by our honorable chairman, and I do not want to go into the details, but I had hoped and believed that the delegates to this Convention would realize the importance of their voting for home rule or no home rule, and I hope they will defeat this amendment.

Mr. LINDLY (Bond). After the remarks of the gentleman from Chicago it seems to me it would be well for us to know what Chicago wants in addition to this, so we fellows from down State can come out of our haunts in the jungle and vote for it.

Mr. MILLER (Cook). So far as I am concerned, it is a matter of indifference to me whether you vote this up or vote it down, this State-wide proposal.

The twelve of us from Cook county on this joint committee naturally listened to the eighteen members from down State who said that the 200 cities down State asking for home rule wanted it and that the State outside of Chicago wanted a little progress in the State of Illinois.

Now, if those gentlemen from the down State were mistaken in that, if the delegates from down State want to vote this down without investigation and want to vote it down simply because they have not investigated it and don't know anything about it, that is satisfactory to me. We will then consider, our Chicago and Cook County Committee, what part of this or all or how much in addition to this we want to put in the report of that committee as applicable to Cook county.

So far as I am concerned it was never, and so far as I know it was never the intention of the twelve members from Cook county upon this joint committee to force anything down the throats of the people down State, and I for one refuse to be put in that position.

What we did, as has been explained here, was that we understood that the down State wanted this provision and therefore we joined with them in presenting the report. As I said before, and I repeat it, it makes no difference to me whether you vote it up or vote it down, the State-wide proposal. It does seem to me that it is a matter of concern, however, not only to myself, but the other members of this Convention, that men should get up and talk on this proposition and warn the Committee of the Whole on this proposition who have never given the subject ten minutes' consideration. It does seem to me that it is a matter of concern to every member of this Committee of the Whole that a member should get up here and say that the adoption of this proposal would revive the provisions of the charters, the old special charters to municipalities, that are inconsistent with the State-wide law.

In the first place, the Constitutional Convention of 1870 did not affect the special charters. There are not 100 in force today, as stated, but there are 23 of them in force, and the Constitutional Convention of 1870 did not affect them in anything, contrary to what has been stated. If it had a provision, the special charter, inconsistent with the State law, that of course would not be revived by this proposal here, because with respect to that proposal nothing can be done by the local municipality that is inconsistent with the State-wide law relating to municipalities. And I say it is of vital concern to the whole committee that a member should get up and simply because he has not investigated it state that under the constitution of Missouri a charter must be submitted to the legislature before it becomes a charter. That statement was just as mistaken and just as far from the actual facts, through lack of investigation, as every other single statement made by the same delegate when he is on his feet. Every single one. I say that if we are going to talk about and denounce and vote upon this proposal without any investigation it is a matter of concern, and I say that it well justifies the denunciation contained in the Chicago newspapers of this Convention.

Now, just two or three other things and I will close.

When I started in on this matter, when this Convention convened, I had not considered it or studied home rule for cities. I was ignorant on the matter. The first two or three weeks the Convention delegates from Chicago came here and talked on home rule. Their propositions in the start did not appeal to me. The reason was because I was ignorant on the matter—a little more so than I am now. I began to investigate, and I learned that 13 states have constitutional home rule—one of them for 45 years, another for 41 years, ranging down to eight years, and on the investigation I learned that the home rule was confined to local affairs, and that some of those states went so far as to prohibit the state from making general laws relating to those local affairs. And some members—in fact, the down State members of this joint committee—wanted that sort of a proposal here, and some even opposed that, successfully opposed it in the committee. Then I learned from all of the investigation that I made that in those states that have home rule there are 200 cities down State and villages have secured home rule charters and have thereby secured home rule privileges, and that in those cities where they have adopted those provisions there is general satisfaction, I might almost say universal satisfaction, with the home rule privilege. It happens to be a part of my professional duty to

go into the state of Ohio about twice a month. That is one of the states which has home rule. It applies in Cincinnati, with its half-million people; it applies in Cleveland, with its 800,000 people; it applies in Dayton, with 150,000; it applies in many other cities. It applies in the City of Detroit, with its million population; it applies in 15 out of the 30 largest cities in the United States, and so far as I can learn there is general satisfaction. I also learned, as I think, that the home rule provision in general, not specifically, embraces about the things which Section 62 of our Cities and Villages Act undertakes to confer on the local municipalities.

In other words, Section 62 undertakes generally to confer upon municipalities the power to legislate regarding all home rule matters that have not been legislated upon by State wide provisions by the legislature. The trouble is when the legislature undertakes to specify these various powers it always omits something, and the cities who have special needs are most always importuning the legislature for more legislation, and the legislation is conducted and finished not deliberately, but hastily at the end of the session, and it is incomplete.

A good example which has been given was of Chicago needing some legislation to build a municipal pier, and she built it. Then she undertook to grant a peanut privilege or a concession, or something in that line, and found she did not have the power, and had to come back to the legislature again to get the right to give the concession to sell peanuts on the pier. That is just an example of what is happening all of the time. So far as this proposal takes away any rights whatsoever to legislate, it relates solely to the form of government. Of course, it could not be a soviet form of government, because that would be contrary to the United States' and the State of Illinois' Constitution. Of course it could not be any of the other things that have been apprehended here. Of course no county in this State would be any more likely to elect a king for life to govern them than the State of Illinois would be.

As stated by some of those who argued in the New York convention, if a local community is not capable of self-government in purely local matters, how is the aggregation of local communities able to govern itself in the State?

On further investigation of this matter I learned this, among other things: In the constitutional convention of New York which sat in 1915, which embraced many of the ablest men throughout the state, Morgan J. O'Brien, Ellicott L. Tremont, Mr. Stimson, DeLancey Nicol, Mr. Sheehan, Mr. Wadsworth, Mr. Parsons, Mr. Stanchfield and many others whose names are familiar to all of you, this matter of home rule was discussed by each and every one of them, and the whole state agreed on this: There was no contrariety of opinion on it, every one so far as I can find in the record, both in New York City and up State, agreed it was the very proper and necessary thing to do. Now, why should they agree to it? They did it, I take it, for this reason: They had investigated it, studied it, and did not turn down the proposition because they read the first section and never got to the second section, as was apparently done yesterday, because the delegate who spoke against it did not know the second section forbade the local government the power to assess taxes or grant licenses for occupations. I say from reading those arguments that the men who made the arguments, both from up State and down State, both New York City and elsewhere, showed a familiarity, a detailed familiarity with the history of home rule in Ohio, in Michigan, in California and in the various other of the thirteen states that have adopted it. They gave the instances to show with what great deliberation the cities uniformly convened to adopt or make a charter. In nearly every instance it took them years to complete or accept it. In nearly every instance the state voted down one or two proposed charters. The charters were adopted with the greatest care, because they were adopted by people who were interested in them. On the other hand, they showed the approval of charters by the legislature after being locally adopted, and showed in every instance how slipshod and haphazard and without thought it was done.

In other words, I can read here at length from the debates of New York, but I won't take the time. They would be very illuminating, however. It was pointed out there at the very foundation of government communities had home rule; that is the way the American people learned self-government, because they had local self-government in the towns of New England. It was pointed out that municipal home rule is not only in accordance with the history and provisions of our country, but also that it stimulates and revives and educates the people in self-government.

Now, I won't go on and discuss that matter. I simply want to leave this suggestion with you: This subject of home rule has been agitated in the United States widely, throughout the country for twenty long years. There seems to be no substantial disagreement as to the advantages of it among those who have given the matter consideration. There is a very great contrariety of opinion about it among those who have not given it any consideration whatever. I simply suggest that if perhaps the members down State would give this matter perhaps one day's or two days' or three days' consideration, that if they would start by reading the pamphlet put out by the Legislative Reference Bureau, they would favor the proposal, or they would support this committee, but so far as I am concerned I have assumed—I am with the other Cook county members in that regard—there is a matter of indifference what you do with the State-wide proposal, vote it up or down. If you vote it down without consideration, or with it, whichever you choose, then we from Chicago will get together and see what we want to put in the Chicago proposal.

Mr. JACK (Jasper). I don't know as I can add anything to what has been said. I am a member of the Committee on Municipalities, and from down State, but I don't want the members of Chicago and Cook county to misunderstand. It is for that reason that I, who am from down State, am up here trying to exercise the right and privilege of open discussion.

I am thoroughly in accord with this report. I am in accord with this report, because in my judgment it is as nearly perfect as can be gotten in this Convention. It meets the demands, not only of Chicago but of the cities down the State. I am one of those that believe with our government when it declared that one of the great demands of the time was that we have more independent government. I want to say to you that if the cities and villages of the State of Illinois under this conservative proposal are not capable of transacting their own business, I want to say the legislature of Illinois, made up largely of cities made up from those districts, is not capable of enacting laws for the State of Illinois. That is only my personal opinion.

This proposal, in my judgment, is very conservative. In fact, it is more conservative than many of the down State members of the Committee on Municipalities, if they had had their own way, would have made it. The great conservative body, or conservative men, that were guarding every danger of trampling on the rights of the people of the cities and villages came from the Chicago committee. The first section here, I always favored from the early start, this section of this matter, simply because it made all those matters of rights and powers granted subject to the laws of the State of Illinois. I am frank to say that also as to Section 4, as to local improvements, the idea was advanced by some that the city should have full control of it. I for one was always in favor of making those local improvements, the powers set out for those subject to the State law, that is the matter of levying taxes must be adjudicated by the courts, as they are now. That has been done.

Is there any gentleman in this Convention who will deny the justice of Section 5?

Section 5. No law shall be passed by the General Assembly granting the right to construct or operate any public utility within any city, village or incorporated town requiring the occupation or use of streets, alleys or public ways by permanent fixtures or equipment without requiring the consent of the corporate authorities.

If it is the idea of the delegates to this Convention, by leaving this question open, that future legislatures may authorize the use of the street without the consent of the city, I am here to say to you that I am opposed to it. I am in favor and believe that this should be embodied in the fundamental laws of the State of Illinois, where it cannot be changed at the whim of the legislature. I want to call your attention particularly to Section 7. I am one of the citizens of the State of Illinois, and as a delegate to this Convention believe that whenever a public utility corporation makes a contract with the city that that utility corporation should live up to that contract as made, and for that reason I am in favor of incorporating that into the fundamental law of the State of Illinois.

Gentlemen of the Convention, if I were in favor of the Public Utilities Commission of the State of Illinois controlling the rights of public utilities in every city and every corporation of the State, I would vote against this proposition in toto, and that is the only condition under which I would vote against it.

One of my reasons for voting on this, and one of my reasons for my supporting this, is that I believe these contracts when entered into should be inviolable. One of my reasons for supporting it is that I believe the citizens of Newton, the city from which I come, are just as capable of knowing what they want in the way of contracting with public utilities as is the legislature of the State of Illinois. I see no danger in that, as has been explained by delegates here who are much more able to explain it than I am.

It defines practically and wholly the formation of the city government, that is, whether you will have a City Council, Mayor or other officers, local officers, as you see fit. Some of the delegates fear that some of the cities down State may if they got that power make the tenure of those city officers and other people for life. It may be they would do that thing in some cities, but so far as my own city is concerned, I have no fear of their giving an unreasonably long term of office. I thought it might have been wise to provide that Section 9 should apply to cities probably of 25,000 or over, but in view of the suggestions made by the chairman of this Convention that he expected to offer an amendment to Section 1 that I think will cure every defect, if that amendment is adopted, then you in the cities of the State of Illinois must live under the general laws of the State of Illinois. Even if that amendment is not adopted, I doubt whether many smaller cities will go to the trouble of adopting a charter; they will still continue to operate and transact their business under the general laws of the State of Illinois without adopting any charter.

Gentlemen, as a down State delegate, I expect to support this proposition with as few amendments as can be made to it, because I personally know that the committee that had it in charge discussed practically every line and sentence and word in it as to what the full import and meaning was. And there were men on that committee that were willing to and did try to guard the rights of the citizens. If you are afraid that the citizenship of the cities of the State of Illinois, with a Constitutional provision for home rule, are going to do violence to this, I say, in my opinion, your fears are entirely groundless. The citizenship of my town, my city, is conservative. I do not believe they will do violence to this. While contrary to my judgment and my vote, they adopted the commission form of government, still are moving along, and I think you will find that all the cities and villages throughout the State will be moving along under this.

I want to say to you, in my opinion the question of municipal government is one that is entitled to some recognition in the Constitution of the State of Illinois. It is entitled to some foundation in the fundamental law of this State.

Mr. CRUDEN (Cook). Mr. Chairman and gentlemen of the Convention: I am not anxious to impose any long speeches on the Convention, because from the beginning we have not suffered from the want of speeches.

It is evident that some of the members have failed to investigate this matter, because I was rather surprised to hear the delegate from Clay say last night that the cities did not want to have home rule.

I recollect in the legislative session of 1919 in the Senate chamber appeared delegates from all over the State demanding home rule, and they were very much in favor of repealing the law relating to the Public Utilities Commission. In fact, their efforts were so strenuous that I had made up my mind as a member of the General Assembly to vote for the repeal of the Public Utilities Act if I had an opportunity to do so. Some of the members here, Mr. Lindly and Governor Fifer, seem to forget I introduced a proposal, numbered 55, that related to home rule for the City of Chicago. I want to present them with a copy of that proposal, because it is evident many of the down State men feel that they should separate our home rule from the rest of the State. When they begin to talk like that, I fear that they will impose their proposition on us. If you want to give the City of Chicago what it wants, adopt Proposal No. 55, which I introduced January 28th, which is what the City of Chicago wants. The committee is composed of eight Republicans and seven Democrats, and they have given it a great deal of attention, even before this Convention convened. If you want to give Chicago what it wants, pay attention to the demands of the City Council of the City of Chicago.

Mr. GREEN (Champaign). I resent the accusation by the distinguished delegate from Cook that some of us who have talked about this matter have talked about it without any reflection.

I sat here for at least one day and listened to arguments by men who have given deep study to this subject of constitutional home rule, and I thought that I learned something from those arguments. I wonder if he has read, and I presume he has, the special and concurring opinion by Justice Pimlin in the famous Wisconsin case of State vs. Thompson with reference to the whole subject of home rule and the additional brief on the subject. That can be found anywhere. I presume he has read it, because when a man studies this question that is one of the first cases that he reads. Don't think it was misleading when we told you this does turn loose riotous legislation by the municipalities, because in that opinion Justice Pimlin quoted the language of Justice MacFarland of California, which has become the leading case on this subject. Justice Pimlin reviews the various so-called home rule provisions of the various states which up to that time had adopted the provision, reviews perhaps not all of them, but most of them. Then the decision goes on that up to that time as they had in Illinois been governed by general legislation, classifying the cities and providing in certain cities of a certain class certain powers should arise, calls attention to the pendulum having swung from the unfortunate situation when the legislature was meddling with the local situations over to the other extreme which gave the city a chance to do all of the wild things the legislature had been doing before it was restricted. And there is but one conclusion from the logic of this decision—that is, the way to confer these powers of home rule on a municipality is by statute, so that the state can modify the rule-making during the life of the constitution to meet the conditions and can pass general laws and general statutes which will give the cities power to pass ordinances of such kind. They can repeal those statutes, or the state can take back the power it has granted. That is the middle of the ground, the middle of the stream. I am driven to the conclusion that the power which would give the legislature the right to meddle in local government is wrong, as is the other extreme, to permit the cities to do it for themselves.

They say this proposal does not do it. We were told by the chairman they borrowed provisions from the various states. I do not know. Even in Ohio I don't believe any delegate to the Illinois Convention wants to brag of the Ohio constitution. Even in Ohio I find that they have a law similar or such as is submitted here:

"Municipalities shall have authority to exercise all powers of local self-government and to adopt and enforce within their limits such local police,

sanitary and other similar regulations as are not in conflict with the general laws."

I have no objection to that going into the Constitution of Illinois. I do not think any of us have any particular objection to it, but they ask us to take a chance on what the court might say on these following words, the paragraphs (a), (b) and (c) of this proposal:

"The following shall be deemed to be a part of the powers hereby conferred upon cities, villages and incorporated towns:

(a) To adopt and enforce within their limits local police, sanitary and similar regulations.

(b) To make any and all public improvements.

(c) To grant licenses for the construction, ownership, leasing, maintenance and operation of local public utilities and to regulate the exercise thereof."

They say they want us to believe that is modified by the six words in the preceding paragraph. Maybe they are harmless. If they are harmless, why insert them at all? It was done with a motive; it was not done in Ohio; it was done with a view of removing the power of the State to control in some way.

Mr. HULL (Cook). Do you want the provision put in there that they shall also be subject to State law?

Mr. GREEN (Champaign). I think it should all be stricken out. What is the use of putting in specific language when you have already given them the power to do it by general law?

Mr. CHEW (Shelby). I would like to ask what section of the municipal law you are referring to?

Mr. GREEN (Champaign). In the Constitution, Article 18, Section 3, pertaining to the amendment, before 1912. It is the present Constitutional provision, I understand. There is another section later, in Article 12. But Section 3 is the general proposition. One is that they may do it by special charter, or the legislature may grant the general power, but in either case Section 3 controls it, and there is nothing for the general law.

Mr. CHEW (Shelby). I understand, Delegate Green, that phrase is "municipalities," and municipalities are defined as cities having a population of 5,000 and over. It does not apply to all cities and villages of the State.

Mr. GREEN (Champaign). That may be true.

Mr. HULL (Cook). That word "general law," as used in Ohio, is held to mean laws relating to state affairs.

Mr. GREEN (Champaign). State affairs?

Mr. HULL (Cook). Yes; they do not use the words "general law" as we use them here.

Mr. GREEN (Champaign). Well, as I was about to say, in this opinion of Justice Pimlin in the Wisconsin case he points out the utter inconsistency of the opinions in the various courts of the various states, what they mean by municipal affairs, what they mean by local self-government. And he says they are wild words. We do not know what Illinois would construe them to mean. California differs from Michigan, Michigan differs from Minnesota, Minnesota probably differs from Ohio on the details of what is meant by those words. Of course, Illinois will probably make its own rules. He refers also to Michigan. Let us see what the constitution of Michigan is:

"Under such general law, the electors of each city and village shall have power and authority to frame, adopt and amend its charter, and to amend an existing charter of the city or village heretofore granted or passed by the legislature for the government of the city or village and, through its regularly constituted authority, to pass all laws and ordinances relating to its municipal concerns, subject to the constitution and general laws of this state."

Now, why didn't this one stop here? Not that there is any intention to do anybody an injustice, but I cannot for the life of me see why.

Let me be understood. I am heartily in accord with the delegate from Jasper with reference to the ratification of Sections 4 and 5 and certain other

sections, but there may be certain sections that I would not desire to keep, but certainly those two I would desire. We are not talking about those sections; they ought to be kept in this Constitution. We are talking about this blank wide constitutional provision for home rule, or whether we should have some provision like some other states, if we want to go into the home rule business, in which we should authorize the legislature to approve the charter, such as they do in Missouri, or we might authorize local self-government as they do—

Mr. MILLER (Cook). What is there in the constitution of Missouri that provides the legislature shall approve the charters?

Mr. GREEN (Champaign). I will read it to you:

"Any city having a population of more than 100,000 inhabitants may frame a charter for its own government, consistent with and subject to the constitution and laws of this state, by causing a board of thirteen freeholders * * *, but such charter shall always be in harmony with and subject to the constitution and laws of the state."

Now, then, in Missouri, the Supreme Court held in the cases of concentration of population, they held the city charter was one which was subject to the regulation of the State, that its provisions must be consistent with the law of the state, and in that case the General Assembly had taken some action with reference to that charter when it had been submitted which was thought overruled it.

Mr. MILLER (Cook). The question I asked is, where is the constitutional provision which says the charter must be submitted to and approved by the legislature?

Mr. GREEN (Champaign). It doesn't say that.

Mr. MILLER (Cook). It says exactly the contrary.

Mr. GREEN (Champaign). Well, it may say exactly to the contrary, but the court says it is subject to the approval of the legislature in this respect.

Mr. MILLER (Cook). Will you name the case in Missouri where the charter had to be submitted to and approved by the legislature?

Mr. GREEN (Champaign). I say—that is a possible misstatement. Literally I say it does have to be approved by the legislature in dealing with some matters.

Mr. MILLER (Cook). Subject to the General Assembly.

Mr. GREEN (Champaign). Especially subject to the general laws passed by this State.

Mr. MILLER (Cook). Well, that is what this does.

Mr. GREEN (Champaign). No, sir; it goes further than that.

Mr. MILLER (Cook). Will you show me where it has to be approved?

Mr. GREEN (Champaign). That is four times you asked that question, and a little different each time. It does not, in that language, but I say the effect is the same.

Mr. MILLER (Cook). Doesn't this say when approved by the voters it goes into effect?

Mr. GREEN (Champaign). Subject to the power of the approval of the legislature governing the matters in the City of St. Louis, that is the construction of it. The last three lines of the first paragraph of Section 1 I would like to have some one on this committee explain to me. That is a grant of power, and it says "This grant of power shall be liberally construed and no power shall be presumed to be denied by reason of not being specified in this Constitution or any existing future law." Now, that means the burden of proof is on the city or on the State. Where no power in the city exists then they certainly will have to admit there is no necessity or excuse or purpose at all for adding paragraphs (a), (b) and (c).

The proposition I would discuss is not the language that will be used, or any sections which ought to be in the Constitution regulating cities and their powers, but the fundamental question whether we shall make the city sovereign with the burden of proof on the State, or the State sovereign with the burden of proof on the city. I, for one, prefer to keep the State sover-

eign and the burden of proof always on the city to establish the power which it seeks to use.

Mr. MILLER (Cook). The very first lines of this Section 1, "subject to existing or future laws" keeps the sovereignty in the State. Paragraphs (a), (b) and (c), it is my recollection that those were put in there at the instance of the down State members. As far as I am personally concerned, I would just as soon they go out as not. The Ohio act, which is satisfactory to the gentleman who has just spoken, is too wild for me. I would not put it in. I think it is a little wild. It does destroy, by so many words, State sovereignty in so many affairs. This proposal of ours preserves it. I am against destroying the State's sovereignty as to local affairs. That is why I am against it. If the down State members want that in, we prefer to have some other one for Chicago.

In this case in Wisconsin where Judge Timlin wrote a special opinion, and one wholly outside of the matter under discussion and submitted to the court, to give his individual views—in fact, to write a textbook on the various subjects connected with municipal home rule, which had nothing to do with the discussion—we discussed that in our committee, and we thought when the judge went outside of the case to write a textbook on a subject not connected with the case, we preferred to go to textbooks by parties who had given the matter more consideration.

Mr. HAMILL (Cook). Under the rule of construction, if a provision in the Constitution is to be construed as a limitation on the power of the General Assembly, may I ask what, if anything, is denied to the General Assembly by Section 1?

CHAIRMAN HULL. I did not get the question.

Mr. HAMILL (Cook). Under the rule of construction, if a provision in the Constitution is to be construed as a limitation on the power of the General Assembly, may I ask what, if anything, is denied to the General Assembly by Section 1?

CHAIRMAN HULL. I do not know any power that it has that is apparently denied by Section 1.

Mr. SIX (Pike). Now, while this debate has taken a wide range, I wish each delegate would think over each section and decide for himself if he can afford not to adopt the amendment, notwithstanding the fact it will kill home rule. It cannot possibly kill legislative home rule, and the intention is to kill city home rule on the subjects herein mentioned.

(Amendment lost.)

Mr. MILLER (Cook). I wish to offer an amendment to be added to the first paragraph of Section 1, after the word "law," and move its adoption.

AMENDMENT No. 6.

Amend Section 1 by adding after the word "law" in line 8 the following: "This grant of power shall not be effective in the case of any city, village or incorporated town unless and until such city, village or incorporated town shall have adopted a charter in accordance with Section 9 of this article."

Mr. MILLER (Cook). This amendment, I will explain, was brought by the chair, and is pursuant to the amendment which he suggested this morning that he proposed to offer, and the effect of it of course is simply this, that no city down the State, Bloomington or others, whatever its Mayor or anyone else says, gets the power of local self-government granted in Section 1 until the city or village has voluntarily adopted a charter. Therefore that particular city of course is not subject to a soviet government or a king or other hereditary monarch. In other words, Section 1 puts it solely within the option of any city to adopt a charter. Of course we say before and until they adopt this charter, this grant of power contained in Section 1 does not apply, so that no city is injured by this Section 1 under any possible conceivable circumstances, even if the home rule section is wrong.

(Amendment adopted.)

Mr. COOLLEY (Vermilion). I have an amendment I wish to offer. I offer the following amendment and move its adoption:

AMENDMENT No. 7.

Amend by adding after the word "cities" in line 1 the words "of more than one million inhabitants" and strike out of lines 2 and 3 the words "villages and incorporated towns."

Mr. COOLLEY (Vermilion). I wish to assure these delegates who do not come from cities of less than one million inhabitants that this proposal is offered in good faith. Much has been said here this morning in regard to the cities to which this should apply, and it is for the purpose of getting an expression here that this amendment is offered.

Mr. MILLER (Cook). I hope that this amendment will not be adopted.

If it is the desire of the members of this Convention, as I said before, to vote down this section either with or without investigation, why vote it down, but please don't try to hand Chicago these things which it has not asked for yet. If this be voted down by the State, the Chicago committee probably will adopt as a part of its proposal for application to Chicago or Cook county, this section, too, modified by certain ideas the down State members want incorporated here.

I have not doubted for a second the good faith of the member who offered this, as he suggested, but we don't want it. I do not think that the other members of Cook county want it, either. If this is to be voted down, let us vote it without any such amendment, let us make it apply to Chicago, and then Cook county and Chicago can draw its own proposal and submit it to the Convention for adoption. If it is adopted, as I said before, it will probably be slightly modified by the needs of the down State, whose interests are vital to us all and should receive consideration.

Mr. BARR (Will). I would like to know how the down State members can vote up or down on the proposition that is now before us. Is it your opinion the Cook county members should not participate in the matter as it now stands? You said that the down State members who want to vote on this matter, up or down, should do so. Is it your understanding that the Cook county members should not participate?

Mr. MILLER (Cook). I say if it is the desire of the down State members.

Mr. BARR (Will). How are we going to determine whether the down State delegates want this or don't want this section?

Mr. MILLER (Cook). I say if it is the clear desire of the majority of the down State members not to want it, the Chicago members would not vote so as to pass it.

Mr. BARR (Will). That is the understanding?

Mr. MILLER (Cook). There is no understanding on the question; that is simply expressing my own mind.

Mr. BARR (Will). It seems to me difficult to determine what the down State members want to do with this article, whether to apply it to all down State or not.

Mr. MILLER (Cook). I assume that this is not the final vote. We have other things to decide here that we will probably reconsider, and I certainly think and have every confidence in the world that I am right in stating the Cook county members do not want to force on the down State members something they do not want.

Mr. BARR (Will). This amendment cuts off entirely the members of the down State cities. It kills entirely the work of the Committee on Municipal Government. Before our committee we have had a number of proposals offered to this Convention by delegates, and we have heard a great many arguments for home rule. We have listened patiently, as we did here, to a number of eminent gentlemen who have made a study of this subject. We down State people feel from the proposals offered and from the pressure brought to bear on us there should be some sort of home rule for down State.

In the Municipal Government Committee there were more what you might term absolute home rule delegates than there were in the Committee on Chicago and Cook County.

I believe the down State people should be represented by a vote here. I think we should either vote on this thing squarely or not at all. I am in favor of giving the delegates here an open vote on the proposition. I do not think it should be amended in this manner to kill it in this way. If the down State people don't like this report as it is brought in, vote it down. If you do, vote it up. Don't divide it up in the manner in which the amendment seeks to do. I hope the amendment will not carry.

Mr. SCANLAN (LaSalle). I would like to ask the gentleman from Vermilion whether this amendment applies to the whole proposal?

Mr. COOLEY (Vermilion). It applies to the first section. This amendment was offered purely for the purpose of ascertaining whether the Convention wants the articles to apply to all cities of the State of Illinois or to certain cities.

We have been discussing this proposition here, all of the time uncertain in our own minds as to how many wanted it to apply to the various cities of the State. It is done to put it squarely up to those delegates whether or not this suits Chicago or whether it suits the other cities of the State. It is a simple question. If it is deemed wise, defeat the amendment.

Mr. ELTING (McDonough). I am in accord with the proposed amendment. I agree with many other members of this Convention that the committee has put in its best hours and months in their report to this Convention, and I think that they have given to this Convention a very safe and sane home rule proposition.

I do not think it is fair to the larger cities in this State to limit this proposition to the larger cities when we down State people are claiming the right to interfere with the large cities in their matters. I for one would like to hear the experience of the men from the larger cities on this proposition.

I think this is a matter in which we should be frank with each other, and if it is a good proposition let us stand for it.

I cannot see but what, if this is a good proposition for Chicago and for cities of over 100,000 inhabitants why it should not apply to the smaller cities. This report covers a good many things, but with all its good sense and flexibility it does not include all that had been previously granted to the cities and towns and villages by special charter. As I stated in the beginning, I can see no harm in the report of the committee on this proposition.

I think home rule is what it means. It does not mean to change our form of government, but simply means that our form of government may be applied to the local community by people who live there and understand the local conditions. It is not an attempt to create a commonwealth in the State of Illinois.

I don't think the State is broad enough to allow Cook county to create a state within itself and secede from the State of Illinois. I do not think you can create a State within it without the consent of the people.

Let us get back to this proposition. What does it mean? The cities do not have to take it unless a majority of the people want it, and what is government, after all, if it is not the right to regulate our affairs. For my part I see no harm in it. On the other hand, I can see much good.

The objection of a majority of the delegates in opposition to this proposal is the fear that it is taking too much power away from the legislature. One thing is certain, it will have no power except what this Convention gives it, and while the legislature has control over the cities, towns and villages, many of the cities, towns and villages are doing just the same thing that this home rule provision provides they may do locally. As has been said by the delegate, in the Constitution of the United States there is a guarantee to the State of a republican form of government, and our State Constitution guarantees the same. And I do not think because this provision is added of home rule that there will be any drastic change in the form of local communities. What it means, as I understand it, is to apply more directly our republican form of government to our local communities.

Now, there is another good thing that commends it. It will leave the legislature much time for legislating for city and county affairs by men not acquainted with the needs of the distant parts of the State. Can it be said that men from all over the State know more about the conditions in each home town and the needs of the people in that locality than the people that live there? I say I give credit to this proposition because I know these men, and they have given hard work to the proposition and studied the proposition from all angles. There is not a man in the committee that is going to deprive the commonwealth of the State of Illinois, in granting home rule, of any of its powers. Creating another state is another and an entirely different proposition. Now, this is not forced on any city, town or village, unless they shall by a referendum vote desire home rule. The men in the cities, towns and villages of this State constitute the commonwealth of the State of Illinois, that is, a part of it, and they are no different from the men that live in the country. We are all loyal, and true to our republican institutions. We are all loyal to our republican form of government, and there is none of us that want to see it destroyed or impaired, but I see nothing in this proposal that infringes in the least upon our plan of government, but simply brings it from the State down to the city.

I want to read you what has been said in the Bulletin with reference to it: "Much of the time of the State legislature is given to measures on which only a portion of the members can be expected to be familiar, and beyond or outside of the field of State legislation. It is the main business of the legislature. This means a vast waste of legislative time and has a demoralizing effect on the work of the legislature. It interferes with the independent action of the legislators on measures on State-wide importance, since they are often under pressure to subordinate their views on such matters in order to vote in opposition to measures of special application to their district."

That is the way the matter is working out here. No, I think we should consider this matter seriously. It is not depriving anybody of any rights, and I cannot see where one community can infringe or impose on another community the matter of taxation; the money part of it is controlled by the Constitution.

If we are going to have a republican form of government, let us have a republican form of government. Let the people have something to say about things, about the way the government is to be managed and controlled. We have not many very large—as my colleague stated—we haven't very many large cities in our district. Macomb, the county seat of McDonough county, has something like 7,000, and Monmouth between nine and ten thousand, I think; I have not noticed the last report of the census. But, speaking for Macomb, I think they would welcome the change that is suggested in this proposal.

No, I do not think we need have any fear of the city government imposing on the legislature or the legislature imposing on local city government. We have limitations in the statute regarding the taxing power, as I understand it.

As I understand the law, communities or cities are not limited, or do not have to have all their powers specified by the legislature.

As I said before, cities are doing many things for which there is no legislative enactment. They have broad powers. Of course, they have not the power to override the legislature on purely State affairs, but they will have the right under this to modify in a way the State laws as applied to their local communities, which I see no objection to—where no harm is done, and if the harm is done, the law stands there as a sentinel by which the abuse can be corrected.

I would not want to take part in voting this proposition on Chicago or any large city unless I felt it was right to apply it with equal justice to our local communities. While I admit that there are many things that come in here that are not local in character, that has been one of the things that we have to contend with in this Convention, that is, to realize that we are

not legislating absolutely for our own district, our own town, but we are legislating for the State of Illinois as one great, grand commonwealth.

Mr. President, I do not favor the amendment, and shall vote for the proposition to submit it by the committee.

Mr. KERRICK (McLean). From the time I knew I was to be a delegate to this Convention, my mind was fully made up that whatever the people of Chicago presented to this Convention as the result of their deliberate and careful, and I would say, best consideration, concerning what they desired this Convention to do relative to providing a mode of municipal government for the City of Chicago, I did not know and I did not believe that I would be shown any reason why I would not be in favor of such a constitutional provision. I know of no reason yet. I haven't heard any arguments which seemed to me to meet that demand, but they seem to go a little beyond what seems to be sufficient in the way of freeing the hands of Chicago to provide for its own government, rather than to incline the other way.

I am in accord with what has been said by the delegate from Champaign with reference to these particularly specified enumerated matters under Section 1. I can see the possibility of those being used in the way of sometimes being crooked and questionable, but even with that I am willing to vote for the proposition.

I have had some familiarity with the operation in the State of Ohio with reference to municipal home government. From what I have heard there, I am led to believe that the exact line of demarcation is not precisely located as to what is municipal government and what in the matter of municipal power might be an infringement on the sovereign power of the State. Litigation not very extended and frequent has practically established the mark so that there is no danger of either the State or the municipal authorities transgressing on the rights of each other, and I believe that would work out the same way in this State.

Now, so much with reference to my position favoring what Chicago possibly wants and leaving it largely to their discretion and judgment as to what they think they want in the way of municipal government.

I am confronted with an entirely new question for my consideration, something entirely foreign to what had ever entered my mind until I heard the report, or what was to be the report of this combined committee. The proposition not only to give Chicago what in justice and fair dealing as between man and man and one part of the State and another part of the State demanded, but in addition to that there is coupled with that proposition as presented to us something that will control every city, great and small, down to the most insignificant hamlet in the State, on this proposition, which, until a recent time, I, and I suppose there are more delegates, had not supposed would be presented for consideration in this Convention.

Now, I want to say something that will let a little light in on this Convention from a somewhat different angle than has yet reached the Convention. I know about two years ago outside of Chicago, and I think not without considerable justification, the utilities commission was either usurping or exercising power it had to interfere to a great extent with the activities of the smaller communities of the State of Illinois. It was because of that feeling, and not with a view of a general provision with reference to local selfgovernment; it was the feeling against the State Public Utilities Commission as it was being operated that caused 200 or such a number of mayors of the smaller towns and cities of the State of Illinois to assemble in convention at Pekin in a very excited mood, and not without some reason for such excitement, and the whole subject matter which engaged the attention of those 200 mayors was not the subject of municipal home rule, but somewhere and somehow to curb the operations and clip the wings of the State Public Utilities Commission. There was a feeling which had grown up that they had no right to change a contract which was believed to be inviolable by the people and which they thought should be lived up to according to its terms.

There was that sort of feeling growing up, and it ought not to be considered as having any considerable great weight in the decision of this

great question that now presents itself to us. Their notion was to in some way or somehow get rid of what they believed was an unjust exercise of power by the utilities commission, and the short-cut one would be to give the power of local self-government to attend to these things by themselves, without interference by any other power or body in the State. There was a good deal of dissatisfaction in the situation.

But, gentlemen, there is such a thing as burning down a good barn to get rid of the rats. They did not discuss the effect of a few lines in the Constitution on the State outside of Cook county. That never entered into the heads of the gentlemen of the convention, except of a very few. I happen to know that, as I stated here, because one of the delegates stated the Mayor of Bloomington had voted for this thing because he was a member of the mayors' organization; that he had voted for something substantially as we are discussing now. I knew he had not, because he called my attention to this fact; it was mentioned in the paper; he stood almost alone. He had his reasons for it. He did not agree with everything the Public Utilities Commission had done or attempted to do—riding roughshod over contracts. There is something to the other side, as to whether a contract is inviolable or not for certain reasons. I am not going into that, but I am going to try to show you, if I can, how little consideration the mayors' convention gave to what we are to do in this Constitutional Convention.

Of course, every small village down State will have no very great difficulty, and has had no very great difficulty, in obtaining from the legislature any reasonable provision they found through their experience they needed in order to properly govern and regulate the government of their community. They can get it. Those who have spoken about the home rule and their hands being tied need not be alarmed. Perhaps we won't have the power that the great city by the lake has unquestionably before the legislature or the Constitutional Convention to get a constitutional amendment in order that they might be able to sell peanuts in any particular place around the suburbs of the town. We would probably have to carry our peanuts in our pockets, or perhaps be prevented from going out into some particular spot—for instance, the pier in Chicago—and eating our peanuts. Chicago has the power to change the Constitution in matters of that kind. People strolling along the shores of the lake and wishing to munch their peanuts were discommoded very much by the fact, as I understand it, under the Constitution they could not after they once got on the pier get peanuts. They had to go peanutless as far as remaining on the pier was concerned after they were there.

But we smaller cities do not have so much trouble. Fifty years ago we framed a Constitution, a very large and a very important part of which was that we might get rid of this, that and the other kind of government and this, that and the other kind of locality. The down State people can take care of themselves very easily. I want to say in regard to what has been stated by the delegate to my right that I agree with him in his views and respect him as to what we should have down State, but we can get it and do get it, and we don't have to change our entire system to get it.

The Mayor of Bloomington also gave me his reason for the position he took at the convention. He said: As soon as the people of the State learned there was something done by this Constitution which will make it possible for the State legislature to make a change of some kind in their local government down State in practically every one of those there will be a set of discredited politicians who have not been able to get control under the system in vogue, and they would try to utilize it; they would say, "We have got something new; let us try it." I tell you the people grab things now; I tell you the law is not fixed for you; with this Constitution the people can have the law to govern themselves as they see fit, and they will go to the legislature and get permission for appropriate legislation, and you will find the down State, in even the small hamlets with two or three hundred people, just enough for a local form of government, they will have people making these allegations and they will have the people thinking that they have been under an iron heel for so long that they will hurry to do

the things proposed here, where they need very little change and where they can get along without any change.

Mr. MILLER (Cook). Will you show us where some state had that experience where this kind of a provision was adopted?

Mr. KERRICK (McLean). I don't know; when we were attempting to give it to one state that state returned it——

Mr. MILLER (Cook). Where has this dire result happened as a result of this thing? Have you investigated it? Do you know?

Mr. KERRICK (McLean). Just at present I don't know of this thing having been done before. Not this way. Take the big cities, they all have a reason for it. Historians who have spoken on this have not spoken of the small places, the small cities. It is the great metropolitan cities that were generally agreed could not be properly governed by the method and rule applicable and successfully in use in the smaller communities.

Mr. REVELL (Cook). You just practically said that Bloomington can go to the legislature and get what it wants at any time?

Mr. KERRICK (McLean). I said what it wants it can show for, show its need, if its needs were general.

Mr. REVELL (Cook). If you adopt the amendment proposed and the people of the City of Bloomington should want a measure of home rule such as indicated in this proposal, can the people of Bloomington get what they want?

Mr. KERRICK (McLean). The people of Bloomington don't need the great privileges and the great powers you need in Chicago, because it is not that kind of a town.

Mr. REVELL (Cook). I will ask the delegate the further question: Are you not assuming somewhat to speak for the people of Bloomington in what they shall want for the life and period of the Constitution that we may adopt here today?

Mr. KERRICK (McLean). I do not pretend to know what the people of Bloomington will want tomorrow, as I can only use my best judgment as to what sensible people consider for their best. As far as my judgment is capable of supposing thoughts of that kind, I am entirely satisfied, as far as my mind is concerned, that the people of Bloomington if this Constitution is not amended for 50 or 500 years as to this provision they will be satisfied. They have reason to believe if there is a change necessary in their county government the law-making body will see that it is provided for.

Mr. WOODWARD (Cook). I have listened with a great deal of attention and interest to the remarks of the delegate from McLean, but I am not yet convinced.

I arise, however, to submit this proposition from my standpoint and the standpoint and situation of the twelve other members who make up the joint committee. I hardly know exactly how we as members of these two committees are expected to vote on this question; have that joint report as a member of the Cook County Committee along with the members of the Municipal Government Committee, and being a member of both committees, I would like to feel assured as to just exactly how I am going to clear my skirts in my vote on this question.

In other words, can I consistently vote for the amendment offered by the delegate from Danville and at the same time keep faith with the eighteen members from the country who constitute the balance of the two committees? Am I expected now to vote in the affirmative for the amendment, in behalf of the Chicago and Cook county delegates, and leave stranded, if you please, these other eighteen members of this committee who have entered into this proposal and spent their time patiently and earnestly with us in preparing it for presentation to this Convention? I do not believe that this is a fair way of getting at the question, which I think the delegate who offered the amendment is aiming at. I think he should meet this proposition fairly and squarely, and if he is against it on principle, vote it up or down, as he sees fit, and not seek to put it out of business on amendments of this character.

Mr. COOLLEY (Vermilion). I wish to begin by emphasizing my high appreciation of the gentlemen who compose this committee. We realize the

difficulty of their situation; we realize that they have worked long and earnestly on this, but they present an impossible situation. We fully realize the needs of Chicago in this matter. My object was to do this in order to distinguish between the needs of down State and the City of Chicago. I had in mind an amendment which would apply to cities of less than one million, but fearing that would defeat the measure, I offered it the other way. I feel you never will solve this question unless you decide what measure you are going to consider for the cities down State and what measures of home rule you will consider for the city of Chicago. Personally, my opinion is this: I would like to grant the City of Chicago just that privilege that she thinks she is in need of.

Mr. WOODWARD (Cook). If I assure you that you may be afforded that opportunity later, and further assure you that so far as I am personally concerned I believe I voice the sentiment of the other members of Cook county at this time when I say we are not asking for courtesies from you. Later we may ask your assistance in such a proposal as will be acceptable to the members from Cook county, which we may prepare and present, but at this time I can only emphasize this fact, that we are not asking for what you seemingly desire to thrust on us. We ask you to vote squarely on this.

Mr. COOLLEY (Vermilion). I withdraw the amendment I have offered and offer as a substitute the following amendment:

AMENDMENT No. 8.

Amend Section 1 by adding after the word "cities" in line 1 the words "of less than one million inhabitants."

Whereupon a recess was taken by the Committee of the Whole until 2:30 o'clock p. m. of the same day.

2:30 o'CLOCK P. M.

The Committee of the Whole met pursuant to recess.

Chairman Hull presiding.

Mr. COOLLEY (Vermilion). My object in introducing this amendment was explained at the time. It was being said here that we were giving something to Chicago she did not want. It is a well known fact that home rule applicable to Chicago cannot be applicable to the small cities of the State. I did this for the purpose of presenting the question on its merits absolutely. If it is deemed wise to adopt home rule for the cities of Illinois other than Chicago, you can now do so. If not, you can decide that question as you see fit.

Mr. DAVIS (Cook). I hope the amendment offered will not prevail. Considerable time has been spent in a discussion of the majority report of the two committees. The discussion has brought out fully that this is not the time for taking up the details of home rule in the City of Chicago or any other city of Illinois. The object of this report was the presentation of general principles governing the matter of home rule as it may apply to any city in the State which by the passage of a charter may subject itself to the operation of such laws as affect cities governed under this home rule provision.

It seems to me as if this house in adopting this amendment offered by the chair makes the proposal applicable to only those cities which apply for a charter, makes it entirely out of place at this time to adopt an amendment which would limit this proposal to any cities of any size, whether below or above 500,000. It seems to me we are obstructing our orderly procedure by injecting these amendments at this time. I hope the amendment will not prevail.

(Not adopted.)

Mr. DIETZ (Rock Island). For the purpose of clearing up considerable doubt as to what the first few words of Section 1 mean, as to whether or not the provisions of this article will be subject, when the charters or ordinances are passed adopting the provisions, to the general laws of the State,

to make that matter more certain I offer as an amendment to Section 1 as amended, the following amendment, and move its adoption:

AMENDMENT No. 9.

Amend Section 1, as amended, by adding at the end thereof the following: "Except as in the several sections of this article otherwise expressly provided, the laws of the State shall prevail over the charter and ordinance provisions of any city, village and incorporated town adopting the charter provisions of this article."

I want to say further in regard to that that the people of my part of the State desire the proper sort of home rule. I am in favor of a home rule provision which will enable cities to govern themselves properly and adequately. I have not personally thought that it was necessary to have a constitutional home rule, but the people of my district insist upon it. Now, with relation to whether or not this amendment should go in at this time, I want to make this further explanation: In order to vote upon Section 1 with the knowledge and certainty that the general laws of the State will prevail over the ordinances and the charter provisions of the city, it is thought wise to put in at this point, with the idea that later on if all of the sections of this article are adopted, a motion could be made and sustained to make this suggested amendment a further and additional section to the entire article.

Mr. DAVIS (Cook). In my opinion the words of Section 1 which read as follows, "subject to existing and future laws," seem to cover the point in question, but if there are any delegates who believe that that thought should be emphasized and that the words suggested by the gentleman from Rock Island should be included, there is no practical objection to the amendment.

Mr. JARMAN (Schuyler). I think the danger in the possible construction of this amendment is that it puts cities back where they are now. Except as in the several sections of this article otherwise expressly provided, the law of the State shall prevail over the charters and ordinance provisions of the city, village or incorporated town adopting the charter provisions of this article. Now that, being true, makes everything subject to the legislature, as giving and granting power to the cities. As it would seem to be subject to such construction, then it is different from the article as we have it. The object of the first provision is to grant power to the cities. I think this would be subject to the construction that you should receive a grant of power from the legislature. If it is intended to cover the other phase of the matter, then there can be no doubt in the world that the first part of the section makes everything subject to the laws of the State.

Mr. SUTHERLAND (Cook). I cannot agree with the construction placed upon this amendment by the delegate from Schuyler, but I rather agree with the views expressed by the delegate from the fifth district of Cook, and I do not see that this amendment itself does any harm, although I think that it is perfectly well taken care of without it. If at the same time it is going to make any difference at all in the clarity of future construction, I think it would be desirable to have the amendment in.

(Adopted.)

Mr. TODD (Peoria). I do not know whether any additional amendments will be offered to this section or not, but I rise at this time to state that I have as far as possible followed the debates of the last two days with reference to this question. I have been following it very well, and it is rather difficult for me to get all that has been said. The gentleman from Cook this morning intimated that some of us would probably vote on this question without sufficient information to vote intelligently. I am in this position: So far as I have listened to the talks here I have not heard any reason or reasons for changing the present Constitution with reference to the powers granted to cities. In other words, that they should presume to have the power, except where limited by the legislature, rather than to

have only such power as has been granted to them by the legislature. Now, the only argument I have heard in favor of that plan has been that 200 municipal leaders have favored it, but there has been, so far as I know or recall now, no reason why they favored it or who those people represent or who they are made up of. Personally I come from one of the large cities in the State—in fact the largest except the City of Chicago—and there is no request or no suggestion from a single citizen of our city favoring any change at this time in the existing conditions with reference to municipalities, and I am going to vote against this Section 1 for that reason and the further reason that there is nothing in my mind at this time which justifies any change.

Mr. GREEN (Champaign). I move to strike out lines 9 to 15, inclusive, of Section 1.

Mr. DAVIS (Cook). The gentleman from Champaign who is offering the amendment at this time intimated earlier in the day that the enumeration of the powers is subject to a possible interpretation—by inference, at least—that there is a limitation of other powers which it is intended to confer on the municipality. I think the Convention ought to know that everything after line 9 which is attempted to be stricken out by the amendment has not been presented to the committee by Chicago and Cook County Committee, but by the Municipal Government Committee alone. As far as the members of Cook county and Chicago are concerned, they rather hold the same view as the delegate from Champaign. It seems to me as if those lines are to be retained some member of the Committee on Municipal Government ought to present the reason for their presence in this joint committee report. I was present at the session of the Committee on Cook County and Chicago when this matter was being discussed and, as I say, there the feeling was that the lines which it is sought to have stricken out did not add any strength to the contents of Section 1.

Mr. KERRICK (McLean). I would like to know the meaning of “similar regulations.”

Mr. DAVIS (Cook). Unquestionably the word “similar” refers to local police and sanitary and any other regulation of similar nature.

Mr. KERRICK (McLean). What kind of regulations are of similar nature?

Mr. DAVIS (Cook). I don't know as I can define it any clearer than I have—general regulations which have been defined by the police and sanitary regulations.

Mr. KERRICK (McLean). Police and sanitary regulations are complete in themselves, but there is something apparently different means in offering “similar regulations.”

Mr. DAVIS (Cook). It is just a broader term to make certain things which are on the border line and may not be classed as police or sanitary come within the provisions.

Mr. KERRICK (McLean). What is on the border line?

Mr. DAVIS (Cook). It has nothing in mind and, as the Senator knows, is probably used for the want of a better expression.

Mr. KERRICK (McLean). Then it may as well be stricken out.

Mr. JARMAN (Schuyler). As a member of the sub-committee, one of the members of the sub-committee on Municipal Government, we presented these three matters to the joint committee. Now, the gentleman from Champaign has indicated very clearly that he is against this whole proposition, and I presume his object is to cripple the whole proposition as far as he can. These three items are in the National Municipal League form. They are also in the form proposed by the State Municipal League, and as we construe it, and as they construe it, those three items are for the purpose of preventing any one from saying that these are not municipal affairs. Somebody might say that the light, heat and—and the important one is Section (c)—“to grant licenses for the construction, ownership, leasing, maintenance and operation of local public utilities, and to regulate the exercise thereof,” was not a municipal affair, strictly speaking. We want it in here to indicate that it is a municipal affair, but of course it is always

subject to the law of the legislature. But before the legislature acts we want it specifically understood that it is a municipal affair, and that, I presume, is the purpose of the motion to strike it out.

I think it is very important that it should be in here, and the Municipal Committee thought so, too. As far as I am concerned, I would be opposed to the whole section if those three items were stricken out.

Mr. TRAEGER (Cook). Regarding the question of the delegate from Moline concerning similar regulation, I would say that the meaning of similar regulation would be ordinances that the city council might pass pertaining to the duties of the various departments of the City of Chicago. The police is a department, the Department of Police, the Department of Health, and I believe that the committee thought it would be too lengthy by enumerating the various departments. That is what I believe it refers to.

Now, then, so far as eliminating this Section 1, everything from line 9 to 15, gentlemen, we might just as well eliminate the section. We might just as well eliminate the article if we are going to cripple it so that it stands upon the books for naught. I believe any delegate who does not believe in home rule proposition for the city, whether for Chicago alone or any city of the State, should vote up or down. I do not believe under the color of amendment this, and amending it so it will amount to nothing, to cripple it so that our work here for months will amount to nothing, and if we pass it we will have something that appears as a joke in our Constitution. I would much rather some one moved that we eliminate the entire Section 1, or the entire article, and not what we are doing now, attack it from all sides, as I said before, so that it amounts to nothing. This is a matter that ought to come to a vote, and I want to say to the gentlemen who do not believe in it they ought to be able to vote against it.

I believe every man feels it is his duty to vote as his conscience dictates to him and not in a way so that when we get torn to pieces we have done nothing towards our aim.

Mr. GREEN (Champaign). In explanation of that motion, I will say I was informed—I may be in error, but I was informed that some of the members of the committee felt that the general language in paragraph 1 included the language in paragraphs (a), (b) and (c). Numerous inquiries have been made and the gentleman from Cook, Mr. Miller, has attempted to explain what this added to this section, what it meant. It may be my dumbness, but I do not believe this Convention has heard any satisfactory explanation of it. If the general power of Section 1 covers these things, they ought not to be in there. It was stated by Mr. Miller that in his judgment they were unnecessary, that they were covered by the general language in the first paragraph.

Here is my reason for feeling they ought to come out. If you are going to have any article like this at all, and I believe that the Convention knows that my own judgment compels me to vote against it entirely, but if we are going to have it, I do not think we should have this, for this reason: After having made a general grant of power, the last three lines will prevent my voting for it.

Notwithstanding what language we have tried to put in by way of limitation, we have given without the intention power on these three matters to the city, not the city subject to State control, but to the city absolutely. I submit the legal profession will be greatly benefited in the next fifty years in straightening out specific instances which call for a construction in those three paragraphs, and I undertake to guess that the courts will not be consistent all of the time.

Now, for instance, it was suggested that probably the matter of public utilities had something to do with it. That is farthest from my mind. The thing I have in my mind especially is one referring to making public improvements and the power to levy special taxes.

Under the provisions of the California Constitution, the language used was: "for municipal affairs." In this article the language is "municipal purposes," Section 1, line 5. That is the kind of thing now that we are to

have home rule about. The famous opinion in which I believe was used the language "wild words" was in reference to this kind of a case. The City Council in Los Angeles has passed an ordinance levying an occupation tax on every kind of business in the City of Los Angeles. Among others, they levied a tax of sixty dollars a month on the saloon business, or some other kind of liquor business, which was contested, and the Supreme Court of California opened wide the door. This has opened wide the door to levy that kind of taxes; in the Los Angeles case an ordinance was sustained levying a tax on the basis of a man's gross income and fixing the amount of the tax. It was, in effect, an income tax levied by the city upon an occupation or business.

Now, with the amendment which has been offered by the delegate from Rock Island, it gives the State the power to veto the whole business. It makes the whole article less harmful, but with this specific power and enumeration there is certainly a moot question present if they are supreme with the city; if not, about what matter the State might veto. But the big question is this: the city has the right, if this be the law, to levy these taxes, to make regulations, go into various kinds of business, and all that kind of thing, probably in a small way to start with, and do things which can now be enjoined because there is no affirmative grant of power of that kind to the municipal corporation. But if this were in the Constitution they could not be enjoined and the only thing that could be done would be to wait until the legislature met and then take away the power.

May I, by way of illustrating this situation I have in mind, suggest that a few years ago a street fair came to our town with a class of show that the City Council decided was not a benefit to the city, but they offered a high rent for the use of the street and they took it. The city was finally induced by the stirring up of the churches to drive them from the street. They went out and rented a fair grounds and gave the show and it resulted in quite a scandal, as some of the things that went on in connection with the matter were not of the very nicest. It could have been enjoined, the city was not helpless, but they did not do it. Putting this in the Constitution, then, the municipal corporation would have this power, and you could not deny it unless you——

Mr. GALE (Knox). What is the wording here which would give them power other than that now possessed in such respect? I don't quite understand it.

Mr. GREEN (Champaign). Affirmatively herein, without any additional legislation at all, they are given power to adopt and enforce within their limits local police, sanitary and similar regulations. Certainly the police regulation would extend to the street, and the only way to prevent it would be to wait until the legislature met and get a law passed fixing that thing, limiting the use. Another illustration is that we have a park system with an artificial lake, and the park commissioners, with the consent of the people, have invested several thousand dollars in boats which they rent out. There is a grave question whether, if carried to the extreme, that is a wise thing to do. Of course the taxpayers' money goes for them, but there is no objection, so far as that is concerned, as long as they charge a reasonable rate for the boats. But now they charge for skating on the ice on that lake when it freezes over. I see where there is going to be some uprising one of these days when some refuse to pay and they have no right to charge them, when the poor people in that community want to use it they will be able to find some lawyer in that community who will say that they have no right to charge for the use of that ice.

It is a little thing, but the very fact that the City of Chicago had to come to the legislature to get power to sell peanuts on the municipal pier makes it wise to keep these things in the hands of the legislature to change from time to time as they see fit, and not put it all in the hands of the cities.

These are things in the day life of people, and when we turn them over to the city without being under the control of the legislature, I believe it

permits of my statement of yesterday, that it is revolutionary in its operation.

CHAIRMAN HULL. I wish to say for the record that these three particular items were put into the report, as Delegate Jarman has said, for the purpose of indicating in an illustrative way what are the municipal matters and municipal concerns. But while there were some of the opinion that they were unnecessary and should be excluded, on the whole the committee could see no harm in putting them in. Any further discussion on the amendment offered by the gentleman from Champaign?

(Motion to strike adopted.)

Mr. DAVIS (Cook). I move that section Number 1, as amended, be adopted.

(Adopted).

CHAIRMAN HULL. Section 2.

Mr. SUTHERLAND (Cook). There was a suggestion made that this should be subject to local referendum, similar to an appeal to a ruling from the Tax Commission. The committee felt that this was an experiment entirely new in the progress of the State, that it was improper to try such an experiment in the Constitution, that the power of taxation was a State power and should be exercised only by the State authorities, and therefore we put in the present limitation which shows the situation with reference to taxation exactly as it is, not only with reference to the general taxes, but also with references to licenses and occupational taxes which may be levied now only under a grant of general law from the General Assembly. I move the adoption of this section.

CHAIRMAN HULL. For the record, I wish to say that this was put in so as to absolutely clarify the question of where the power of taxation stayed. Of course under the law now the tax can only be levied as authorized by law, and to make it clear that this was not included in the grant of power in Section 1, this section appears in this form.

(Section adopted.)

CHAIRMAN HULL. The question is on the adoption of Section 3.

Mr. CORCORAN (Cook). In the light of what has passed, I raised this question before the committee and I raised it this morning and now I am going to raise it again this afternoon. I cannot vote on Sections, 3, 5 or 6 until I know what the financial arrangements are, that is, how they are going to finance these public utilities. It may put me against the whole thing. I want to know whether they are going to buy five hundred million dollars worth of utilities in Chicago and what the city's percentage of liability in those matters will be, whether twenty-five per cent or some other proportion.

Mr. WOODWARD (Cook). It would seem to me the only answer to that situation is that is a matter that is left for the legislature to determine. I do not believe anyone here can answer that question at this time. I think it is the idea of the committee, my understanding of it, that this matter should be left entirely to the control and action of the legislature.

Mr. HAMILL (Cook). I observe that the first section provides that the cities may have power to condemn for public use in accordance with law.

The second section provides they may have power to condemn outside of the corporate limits, as shall be determined by law. I should suppose that the second section makes the existence of the power dependent on legislative action; I desire to inquire whether it is the interpretation of the committee whether the existence of power to condemn in the city is dependent on legislative action, and whether the words "in accordance with law" regulate only the procedure and not the power.

Mr. DAVIS (Cook). May I answer that? The legal opinion of the committee is that there is ample law in the State books now to allow the city or village or incorporated town to condemn private property for its use which is located within that particular city, village or incorporated town. In order to make the service complete, it may be necessary to condemn property lying outside of the corporate limits of the city, and as to that future legislation would be required.

Mr. HAMILL (Cook). I am quite aware that there is on the statute books a statute which purports to be a power for the city to condemn, its constitutionality is open, somewhat, to be questioned. If that act should be repealed and no other similar act enacted, would there be power to condemn?

Mr. DAVIS (Cook). There would not be.

Mr. HAMILL (Cook). Then it does require legislative action to make it effective?

Mr. DAVIS (Cook). It does require it.

Mr. CORCORAN (Cook). In my statement I include with Sections 3 and 5 this power in Section 6 which says, "the power to acquire shall not be denied by law." What does that mean?

Mr. DAVIS (Cook). I do not think a complete answer was given to the question asked by Mr. Corcoran. While it may be admitted that cities now have the right to operate public utilities, practically there are limitations, practically there are obstacles, because of the constitutional provision limiting the indebtedness of the municipality, and the committees which have had under discussion the home rule provision have faced that situation and for certain, in order to present a complete program, a section would have to be presented dealing with the question of the limitation of the indebtedness of a municipality, as that question may be raised by an attempt of the people of the municipalities to raise money for the acquisition or even for the operation and management of these public utilities. This is not a complete report on the matter of home rule regulations, and one of the sections which is under consideration, and on which undoubtedly a report will be made later, deals with the question of limitation of municipalities, and deals with the financing of such public utilities as I understand may be acquired.

Mr. CORCORAN (Cook). And that is just why I cannot vote on those sections now until I know how they are going to finance them.

Mr. TAFF (Fulton). May I inquire here, in this last part of Section 3, in the first half of the sentence they used the words "for public use," and in the second half they leave out the words "for public use." Why was that done?

Mr. DAVIS (Cook). I do not think it was purposely omitted, but it was to make it more clear, and there is use "for public use" in the second part of Section 3.

Mr. JARMAN (Schuyler). In further answer to the question presented by the gentleman from Cook, a municipality under this power and under the other section might acquire a public utility without issuing bonds, if it has the money, and under this provision they could acquire utilities within the five per cent bond issue, aside from any other financial provisions, and if no other financial provisions were provided for in this article hereafter, then the power is given to the city to do it within the provisions of this article here.

Mr. CORCORAN (Cook). We have that same provision now; we could acquire public utilities in Chicago now if we had any money. I understood the Committee on Chicago and Cook County had a proposition to finance this proposal. We are no better off today than we were before if we cannot finance them. We are no better off. I want to know how it is proposed to finance them.

Mr. JARMAN (Schuyler). This does not affect that.

Mr. CORCORAN (Cook). It has to be obtained one way or the other, and if it is going to be obtained on a corporate liability it would not vote for it, with bonds or something like that.

Mr. JARMAN (Schuyler). Under this article as drafted here it cannot be done in any event only within the five per cent.

Mr. CORCORAN (Cook). There is going to be some additional proposal of some kind to finance it, and I would like to know what that is going to be.

Mr. JARMAN (Schuyler). That will be developed in the Constitution.

Mr. SUTHERLAND (Cook). If I understood the delegate from Cook correctly, he would not favor it if there is going to be a provision in the

Constitution to the effect that the bonds were a lien on the tax levy, if I understood him, correctly, of the corporation?

Mr. CORCORAN (Cook). Yes.

Mr. SUTHERLAND (Cook). The only way it can be financed now under the present Constitution is by liens on the tax levy of the municipal corporation, if an indebtedness is incurred in financing it, so you are making no change in the present Constitution.

Mr. CORCORAN (Cook). I would not adopt it; I would not vote for it.

Mr. SUTHERLAND (Cook). Whether you vote for it or not, you can come to the legislature now and get legislation for a public utility district, one kind or another, with power to issue bonds or levy taxes. You can do that now without anything in the Constitution. You are not changing the situation at all.

Mr. CORCORAN (Cook). Well, then, I am not going to further it; I will be against the proposition.

Mr. SUTHERLAND (Cook). I may explain to the Convention, the committee did not think the powers the gentleman referred to needed to be expressed in the Constitution; they are all understood to be susceptible of delegation, and have been delegated to the municipal corporations, but it was finally thought that it might be better understood by the people if the specific thing which now exists was mentioned in the Constitution, and that is the reason for it.

Mr. HAMILL (Cook). Is it the opinion of the committee, without the second sentence of Section 3 the General Assembly would be without power to confer on a municipality power to condemn property?

CHAIRMAN HULL. The question was raised as to whether a city could or should be permitted to go outside of its own corporate limits for the purpose of operating or owning a utility, and it was felt that there should be a limitation on that, and the right to condemn should be fixed by statute.

Mr. HAMILL (Cook). Was it the opinion of the committee that if this were not in the Constitution it would prohibit the city condemning outside of the city limits?

CHAIRMAN HULL. No, I do not believe it is anything like that.

Mr. HAMILL (Cook). What power does the second section of Article 3 confer on the municipality or anyone else?

CHAIRMAN HULL. To make it perfectly clear that the power to condemn inside the city limits is granted under the first sentence in this section.

Mr. HAMILL (Cook). Well, two members of your committee answer it does not.

CHAIRMAN HULL. I think it is fair to say to the gentleman from Cook the committee thought it would be best to put in there words of limitation, except by means of legislative enactment.

Mr. HAMILL (Cook). You do not mean to say the city had no power without that?

CHAIRMAN HULL. Without touching the question of whether it did or did not, it was put in by way of limitation, so that to acquire anything outside of the corporate limits it cannot do it except by the grant of the legislature. No grant of power, but a limitation on the powers it has, not to undertake anything outside of the city limits without legislative action. That was the thought of the committee.

(Section 3 adopted.)

CHAIRMAN HULL. The question is on the adoption of Section 4.

Mr. SUTHERLAND (Cook). This section is in the same form as has been tentatively adopted by the Committee on Revenue, Taxation and Finance. It is put in here to make a harmonious article, and in case there should be no revenue article, or some change, if there is a duplication, it can ultimately be transposed to its appropriate place in the Constitution. I move its adoption.

Mr. DUPUY (Cook). I offer the following amendment and move its adoption, to Section 4.

AMENDMENT No. 10.

Amend Section 4 by inserting before the first word in line 1 the words "the corporate authorities."

The language in Section 4 seems to have been taken from Article 9, Section 9, of the present Constitution, but it omits the words "the corporate authorities of" of the cities, villages and towns. The Supreme Court has held in a number of cases that the only power which the legislature has to authorize the levying of special assessments and the making of local improvements by special assessment is by virtue of those words "corporate authorities of." The Court has held that the Park Boards are the corporate authorities of the cities, villages and towns within the territory within which they are situated, and if these words are left out, the General Assembly will have no power to authorize such boards to levy special assessments for local improvements.

The Legislative Reference Bureau, in its annotations of the Constitution of 1870, calls attention to the same fact, on page 234, and cites the cases there, and that is why I move that these words be restored.

(Amendment adopted.)

CHAIRMAN HULL. The question is on the adoption of Section 4.

(Adopted.)

CHAIRMAN HULL. The question is on the adoption of Section 5.

Mr. SUTHERLAND (Cook). This is practically Section 4 of the present article on Corporations, brought down to date to apply to other utilities and street railways.

(Adopted.)

CHAIRMAN HULL. The question is on the adoption of Section No. 6.

Mr. SUTHERLAND (Cook). I desire to offer an amendment and a substitute for Section 6:

"The powers of cities, villages and incorporated towns to own, acquire, construct, operate or let or lease for operation public utilities, or to sell the product or service of public utilities so owned or operated and to fix the rates therefor shall not be denied by law."

It was not the intention of the committee in framing this section to give to the municipalities power to fix any rates except those of municipally owned utilities, but as the language reads in the printed proposal, there seems to be some doubt as to whether that intention has clearly been carried out. It reads "The power of cities, villages and incorporated towns to own, acquire, construct, operate or let or lease for operation public utilities or fix the rates therefor, or to sell the product or service thereof, shall not be denied by law."

It probably might not be desirable for municipalities to have full power to fix rates for operation under a lease, as there might have to be intervention of the Public Utilities Corporation under certain circumstances. There is also a question whether it does not even go farther than that. The language which is substituted I think is clear. I move the adoption of the amendment.

Mr. HAMILL (Cook). I see you have adopted the language of the section, "or let or lease."

Mr. SUTHERLAND (Cook). That language was put in there by the committee, and I have no distinct recollection of the discussion on that.

Mr. HAMILL (Cook). What is the distinction?

Mr. DAVIS (Cook). When you own anything, you let it to someone else, and when someone else owns it, you lease it of them.

Mr. HAMILL (Cook). Colonel Davis has explained it very clearly.

Mr. REVELL (Cook). May I ask the gentleman a question? The power to do this, does that mean that the city would vote upon the matter in a ref-

erendum, or that the municipal authorities would have the power to make such a lease, or both?

Mr. SUTHERLAND (Cook). That would be a matter I think for action by corporate authorities, and whether or not there was a referendum would depend on the terms of the city's charter in adopting such matters or upon the action of the city authorities.

Mr. REVELL (Cook). Don't you think it might be wise, if we could, to protect that feature? It is barely possible a municipal corporation might be in the hands of men who would lease publicly owned property at a sum totally inadequate; there would be no protection. Might it not be well to have the protection which a referendum would give?

Mr. SUTHERLAND (Cook). Some lawyer member of the committee can answer that better than I can, but my impression is that the power is practically all in the city, almost to a universal extent.

CHAIRMAN HULL. I suppose it now provides for municipal ownership and operation, as everybody knows, as far as the fixing of rates is concerned. I presume you are familiar with the decision of the Supreme Court in the recent Springfield gas case, and this section 6 is that the powers granted here shall not be taken away from cities, as they are now given under the statutory law. That is a specific instance where the proposal undertakes to say that this particular power shall not be taken away, this particular activity, by any action of the legislature.

Mr. SIX (Pike). Does this section deny to the legislature the right to require cities to establish adequate rates where those publicly owned utilities compete with private interests?

CHAIRMAN HULL. I think it would cover that.

Mr. SIX (Pike). It permits the cities to govern the rates; still any group in a city could, by getting control of the political machinery, by giving low rates, take the general funds to make up the deficit. Is that correct?

CHAIRMAN HULL. I presume there are all kinds of possibilities.

Mr. SUTHERLAND (Cook). It would not change the present situation under the recent decision of the Supreme Court where it was held those operating such utilities have a right to fix the rates and cannot be interfered with by the legislature.

Mr. SIX (Pike). Do you want to confirm that situation?

CHAIRMAN HULL. I want to say to the gentleman from Pike that there was a proposal submitted to the committee on which there was no conclusion reached, partly because it was a proposal that would go before another committee, to provide for the financing of municipally owned and operated utilities, which would require that they should set aside a sinking fund or an amount from year to year to take care of the maintenance charges and retire any unfunded indebtedness incurring in the financing of the utility. I am not prepared to say whether that proposal would be reported out of the committee. It has been an exceedingly difficult subject. It is quite conceivable that that and this would not agree, because that requires a sum sufficient to make the utility a self-sustaining affair, and gives the taxpayer the right to go into court and require the raising of rates, so that it would be a self-sustaining operation. I say I am not prepared to say now what would be the decision of the committee. I have come to a conclusion on it myself. That is not right on this particular question, and it will not answer your question, which is a very difficult question to answer. It is before the committee to answer as it sees fit.

Mr. SUTHERLAND (Cook). If the section is to be adopted at all, it should be adopted on the clear language that it fixes rates only in reference to publicly owned utilities. The wise thing would be to adopt the substitute and then adopt the amendment.

(Substitute adopted.)

(Amendment adopted.)

(Section 6 adopted.)

CHAIRMAN HULL. The question is on the adoption of Section 7.

Mr. SUTHERLAND (Cook). I move the adoption of Section 7.

I regret exceedingly that the delegate from Cook, Mr. Miller, is not here to present this section. He is unavoidably called away. He has given it a great deal of attention. I have given it some thought myself, but I have not his powers of presentation nor persuasion. It was never at any time the intention of the committee, or I think either committee, to concede to the request that came from many parts of the State, and as profusely as anywhere from the City of Chicago, to abolish from the Constitution the Public Utilities Commission, or interfere with the functions of that commission. The feeling has been that that commission was created by law, and this Convention did not need to interfere with the actions of the General Assembly in the proper exercise of its powers, or to repeal laws which amounted to such, which the General Assembly put on the statutes. However, we did realize that there was a certain amount of public sentiment which was the outgrowth of the public utility situation, resulting from the extreme conditions connected with the war and the necessities arising therefrom, that had to be given some consideration.

A year ago last winter, going around the City of Chicago, meeting with the various organizations interested in keeping down the tax rates, and the tendency toward increased taxation, the constant sentiment I met was that they were bound, in spite of the increasing cost of gas and light and other things by the section of the lease that they had with their tenants, no matter how long the lease had to run. Of course, I think they failed to distinguish as between a lease privately owned, where no police power enters, and a contract between the city with its police power and a privately owned public utility corporation. Nevertheless the sentiment was there.

It was proposed, Mr. Chairman, by those who have given this situation careful thought, that it was a fundamental principle that a contract should be inviolate. The Federal Constitution lays that down as a fundamental principle. Now, this does not affect any existing contract; it merely sets up a principle to guide the future. It is a notice and a warning to all contractors in the future that they shall be careful what sort of contracts they enter into, because the contract entered into will be binding. It does not prevent an adjustment. It does not prevent and restrict provisions in the contract by which rates for service and the conditions on which they are given may be changed from time to time; but, Mr. Chairman, it does set up a principle that we feel is honest and can well be stated in the Constitution.

I don't know what effect this is going to have on the adoption of the Constitution. I do not know how it is going to be received by the people. I have heard opposition to it from sources directly opposite in interest and character. I have been told by some of the highbrow group interested in disturbing the public utilities situation that it will arouse opposition among the people because it may mean that a contract entered into under extreme conditions will be favorable to the utility company and rates made when prices are high will be continued for years after the drop comes about, with millions of dollars of profit to the company.

On the other hand, it has been suggested to me by representatives—I won't say representatives, but people whom I suppose are interested in the utility business, that this was not satisfactory or to their liking, and that they wanted no change in the present situation, no more than the other people seemed to want it. But, Mr. Chairman, this is the best thing that the committee has been able to arrive at on the subject of dealing with the public utility situation, and it is not intended to interfere with the functions of general law, and it cannot affect any existing franchise. We consider it only notice to the future as to the care with which contracts must be executed.

Mr. COOLLEY (Vermilion). Does this apply to privately owned corporations?

Mr. SUTHERLAND (Cook). I would think so.

Mr. COOLLEY (Vermilion). In what way does that differ from the permission given to the City Council of the City of Chicago some twenty-five

years ago in this General Assembly, with the substitution of twenty years instead of fifty?

Mr. SUTHERLAND (Cook). I am not intimately familiar with the terms of the bill the gentleman refers to. I cannot answer it, of course. There is a considerable difference between twenty years and fifty.

Mr. DEYOUNG (Cook). Do you propose by Section 7 to give notice in the future any city, village or incorporated town may make contracts with reference to rates for any one of these services which will be inviolable for a period of twenty years or longer, if the law permits a longer term?

Mr. SUTHERLAND (Cook). That is my understanding of the intention of the section.

Mr. DEYOUNG (Cook). So far as it concerns contracts made in the future, they will be withdrawn from the power of the Public Utilities Commission to regulate those rates?

Mr. SUTHERLAND (Cook). Not necessarily.

Mr. DEYOUNG (Cook). As to contracts made with reference to rates, where the rate is fixed in the contract?

Mr. SUTHERLAND (Cook). I think that would be so.

Mr. DEYOUNG (Cook). Where the subject of rates is an element or provided for in the contract in the future so far as the rates are fixed in the contract for a period of not more than twenty years or longer, if the law permits it, it is withdrawn from the jurisdiction of the Commission?

Mr. SUTHERLAND (Cook). If the contract is made in those terms, yes.

Mr. DEYOUNG (Cook). Has the committee determined the possibility that the small villages have to get the necessary data in order to prescribe those rates, in case of the small municipalities?

Mr. SUTHERLAND (Cook). I was at no meeting where there was any such discussion.

Mr. DEYOUNG (Cook). I might speak of an experience covering at least the time I have been at the bar, representing a number of small villages. I once witnessed over the objection of the village attorney the most forcible objections I ever heard, the passage in twenty minutes of a gas franchise forever fixing the rates within a period of forty years. And I was just wondering whether it would be a wise provision to put in the future, because everyone knows full well that the utility will seek to fix rates at least that could be made as favorable as in that case when they secured a good rate for forty years.

The matter of rates is not very often overlooked. I have very grave doubts about putting that in the Constitution. We may say it is notice in the future about contracts, but I have reference to the small villages that do not have the facilities and the funds, but who elect men drawn from all walks of life with no experience in public matters, whose tenure of office is so short, but two years, when someone else may succeed them, and when these matters are far beyond the scope of their experience and ability, to get the necessary data and information to prescribe rates. I am looking for light; to me my experience is against it.

Mr. GILBERT (Jefferson). It seems to me that any long-time provision for utility service cannot be to the interest of the public. It has been so in the past, to the advantage of the utility to have long termed contracts, and I believe it will necessarily be more so beginning from this time, when we start to make such contracts on the peak of high prices. That being true, I think it would be bad to retain this section in the Constitution.

That is not all. We are told, and correctly told, that the Utilities Commission in the future, as during the past few years, will fix the rates for utility service; why put in any sort of limitation by fixing a price for part of the service that these local utilities produce for a twenty year or thirty year or perhaps forty year contract?

Until the utility law became effective, contracts for electric service for municipalities was valid for a period of only one year. It might be made for a longer period, but it had no effect, no binding effect, except for one year, or during the municipal year for which the contract was entered into.

A longer term was allowed to water companies. Those long term contracts were set aside, were brushed aside by the Utilities Commission for the benefit of the public, until we reached the period of high prices, which now prevail, and if you put into the Constitution at this time this provision, in my judgment, gentlemen, you are putting it in there with notice, as I view it, that those contracts that will be entered into, and every utility, will have a right to demand what they can for the service, then if you enter into a contract and a friendly council is in, enter into a long-term contract, the municipality is bound and the taxpayer is bound for the term of that contract, but if you leave that out, they are bound to the extent that the resident of the city cannot go before the Utilities Commission. You will tie it up indefinitely. Personally I am opposed to putting this into the article.

Mr. REVELL (Cook). I am not a member of either committee making this proposal, but may it not be a fact that the reason this twenty-year period is suggested is to make it possible for the securities of public utilities to be sold? To make it more possible to encourage men to go into the public utility business? It is true there are dangers on both sides of this proposition.

I can see the point, which was very well taken by the delegate from Cook, Mr. DeYoung, and I can also see that made by the other delegate from Cook, Mr. Sutherland. Also the point that the costs and expenses are now at the peak. A long term contract made with a utility corporation would mean that the public might make a bad bargain.

That being true, we must also remember that when a contract is made with a public utility corporation under other conditions than those which prevail now, when labor and commodities are far cheaper, that the arrangement made for the public is one of better value, if there be a reasonable assurance that the contract will prevail over the period of years the contract is made for.

Sitting here and listening to all this for the first time, it seems to me you are going to still further discourage the use of money for public utilities if you do not give such public utilities some stability as to the duration of time under which the people who invest their money can figure they will have a reasonable return.

I have not a dollar's interest in public utilities. But I do dislike as a business man, to see them made the buffer of politicians and of those who are putting themselves forward all of the time as the protectors of the people. The utilities make a splendid issue for the politician. If something like the proposition now presented is not suitable, then there should be something that would be more acceptable. We come, therefore, into the realm of speculation as to what that something else is. It should be in a form that would justify the investment of money in utilities. If twenty years is too long, what is the acceptable time? One may say ten years, another man may say five, and another man may say one year or the end of any year that it might go to a commission or committee to have the rates changed.

All of which is putting the public utilities, which the people have need for, further in the hole.

I think we must take some chances on the matter, as to when people will receive benefit and when they will not. If both the public and the promoters of public utilities have notice in advance that whatever contract they agree to must be lived up to, I believe the people can take the chances coming to them and the public utilities must also take chances. In other words, you cannot say that the public will have all of the pie when it wants it, and the public utility promoter shall have none of it at any time. We must be fair. It seems to me if we so act here as to give a larger measure of encouragement to those who are willing to invest in and encourage the public utilities, which the people will want in the future, we shall be wise.

I do not see that any great harm can come if this section is adopted with the final words in the section "in accordance with the law."

Mr. GALE (Knox). What does a contract by a utility with a municipality amount to?

Mr. REVELL (Cook). What will it amount to?

Mr. GALE (Knox). What will it amount to, as far as the validity of the contract is concerned?

Mr. REVELL (Cook). Today, you mean, or after this Constitution?

Mr. GALE (Knox). Suppose last week any city had made a contract with any public service corporation for services to be rendered, for, say, five or ten years; it is not worth the paper it is written on.

Mr. REVELL (Cook). I understand just now it would not be, but I understand that we are preparing a Constitution which will give some stability to all such contracts. I assume you are now referring to the Public Utilities Commission, which has changed the terms of contracts. Is that right?

Mr. GALE (Knox). Yes; I mean by that any contract heretofore made by any municipality with a public service corporation, that contract could be abrogated immediately.

Mr. REVELL (Cook). I understand that is probably true, and I think it is the idea—although I can be corrected by any member of the committee if I am wrong—that this is intended to be, in effect, a limitation on the Public Utilities Commission, that a public body may make a contract with a utility corporation and that the public will have a reasonable assurance that it is inviolable. In fact, if you pass it they will have every assurance that the terms of the contract will be carried out. If you don't do that, I don't see how you can ever expect people with capital to invest in public utilities of any kind—gas, street cars or any other kind of a public utility.

We should encourage people to invest their money in them. I wouldn't put one thousand dollars today in any public utility. I have not put any money in them for ten years. Prior to that time I did own some such stocks, which I am very happy to say I got rid of.

Mr. GALE (Knox). I asked that question in order to bring out the protection which would be given the municipality if it was as this condition is.

Mr. DEYOUNG (Cook). You support the section because you think it will stabilize an investor in a public utility enterprise?

Mr. REVELL (Cook). Yes.

Mr. DEYOUNG (Cook). And the utility will not be made the buffer, as you express it, in politics? May I ask the gentleman from Cook from whence emanates the political conditions or aspects with which the utilities had to deal in the last few years, because of the Public Utilities Commission or because municipalities had to do with their government or administration?

Mr. REVELL (Cook). I think it was due more to the municipalities.

Mr. DEYOUNG (Cook). Yes; and it is a practice of all candidates for office to find it very convenient to attack the utilities. Any candidate for office will willingly promise to have an amendment of the operating conditions of the utilities during his term of office, if he is elected.

Mr. REVELL (Cook). I can well agree with you on that.

Mr. DEYOUNG (Cook). As far as this introducing politics into the contract, it comes from the introduction of politics into a local campaign rather than it does from the action of the Public Utilities Commission; isn't that true?

Mr. REVELL (Cook). I think it is, and that leads me to a question that I would like to ask you.

Mr. DEYOUNG (Cook). All right; when I get through. Suppose, for instance, a contract is made now when we have the peak of high prices, and that contract is in force for say twenty years. The municipality would get the worst of it, the chances are; that is true, isn't it?

Mr. REVELL (Cook). Yes.

Mr. DEYOUNG (Cook). And in spite of the clamor of the demagogue or the politician, the situation could not be changed?

Mr. REVELL (Cook). Not if you made a contract under this provision.

Mr. DEYOUNG (Cook). I am not speaking now of the large city which has the facilities and the resources, with all the necessary statistics at its command to investigate conditions, but of the small villages and towns which you will admit cannot, in the nature of things, have those necessary resources to get those statistics.

Mr. SCANLAN (LaSalle). May I ask a question?

Mr. DEYOUNG (Cook). Just a minute, please. On the other hand, you spoke of stabilizing the investment in public utility enterprises. If a contract had been entered into in 1914 for a period of twenty years, the utility would have gotten the worst of that bargain, wouldn't it? It might have resulted in a loss to the very people whom you seek to protect, so that with high prices and changing conditions it would be beyond even perhaps the average Board of Trustees in the small village to adjust those prices for a period of twenty years, with equity to both sides, that might be true?

Mr. REVELL (Cook). It could be, yes.

Mr. DEYOUNG (Cook). You will admit that they cannot have, in the nature of things, the information and the light upon these questions which they ought to have in dealing with a public utility? Isn't that generally true?

Mr. REVELL (Cook). That is very likely.

Mr. DEYOUNG (Cook). You spoke of stabilizing investments of public utility enterprises. Now, then, if a contract had been entered into in 1914 for a period of twenty years, the utility would have gotten the worst of the bargain and it may have resulted in a loss to the very people whom you seek to protect, so that with high prices and changing conditions it would be beyond the power, perhaps, even of the village board of trustees in the small village, to adjust those prices in a period of twenty years with equity to both sides. That might be true, might it not?

Mr. REVELL (Cook). It could be, yes.

Mr. DEYOUNG (Cook). It is easily assumed that it can be true. So that this provision may have some demerits as well as merits?

Mr. REVELL (Cook). I have admitted there are some.

Mr. DEYOUNG (Cook). And it may work an injustice to both sides, and if the matter could be determined upon justly apart from politics, if the intervention of the demagogue and the candidate for public office could be kept out of the matter, which is purely a business matter, where a service ought to be rendered at a reasonable rate to the consumer, it would be a whole lot better than if it were injected into politics?

Mr. REVELL (Cook). You talk about the local politicians making a campaign on the utility question. Suppose one of these twenty-year contracts were entered into, that would dispose of the demagogue for twenty years, wouldn't it?

Mr. DEYOUNG (Cook). It doesn't do anything of the kind, because I have known where forty-year contracts were entered into, and particularly one of twenty-five years entered into with a traction company, and we had our candidates for alderman telling the voters what they were going to do under that franchise.

Mr. REVELL (Cook). The voters must have been simple-minded.

Mr. DEYOUNG (Cook). No, not at all. Every voter does not know that these franchise rights are in force for the term of years they are granted and cannot be rescinded.

Mr. REVELL (Cook). May I ask the gentleman a question? What suggestion or scheme have you for stabilizing a contract which may be made with a public utility corporation?

Mr. DEYOUNG (Cook). That is a pretty large subject and that is not involved in Section 7. I am speaking on Section 7, and when the time comes I will be very glad to give the gentleman from Cook whatever views I might have on this subject.

Mr. WOODWARD (Cook). On account of my absence I was not present at any of the committee meetings when this section that is now under discussion was considered, and in order to get some little information myself

on the subject, I took this section up with Mr. Miller last evening. I would just like to give you the benefit of his explanation to me. Some of the objections that have been raised here, one of which I made, namely, that at the present high peak of prices a municipality entering into a contract at this time might in the future be placed at a very great disadvantage and be paying a much higher rate for the whole period of twenty years than would seem justified, seemed well taken. His explanation of that was that it might very well be taken care of by the authorities granting this franchise and making these rates on a sliding scale, using the present rates as a basis and allowing for a readjustment from time to time, based upon the advance or reduction of commodities and labor and all that entered into the cost of operation of a public utility. His explanation of that feature rather satisfied my mind that we might safely adopt this provision.

In further discussing the matter I also raised some of the questions which have arisen here this afternoon concerning the proposition of making such a long term contract. In fact, I myself suggested a ten-year period, and he met that suggestion by saying that it would be practically impossible for a municipality to interest public utility enterprises to come into their community and install public utilities unless the period was at least a minimum of twenty years, because it would be practically impossible for them to dispose of securities to any advantage, and he advocated at least a twenty year period. As I say, I am not in position to defend this section, not being more fully informed, but I give this to the gentlemen present for what it may be worth as the explanation made by Mr. Miller, whom I consider competent to pass upon matters of that kind, and whom I know has worked very faithfully and carefully and given to matters of this kind the most thorough and careful consideration as a member of the committee on which he has been serving.

Mr. TRAUTMANN (St. Clair). It seems to me that we have just about reached the section that shows the real reason for the agitation for home rule during the last ten years. Prior to 1913, when the public utility law was passed, there was a great agitation for that kind of an enactment for the purpose of taking away from the local authorities the power to effect rates and regulate the service of local public utilities, and I think I will be borne out by the members of the General Assembly of this Convention that were in the General Assembly of 1913, that it was due to that aroused public sentiment in Illinois that caused the passage of the Public Utilities Act, and at that time, as you gentlemen remember, there was great discussion here as to whether or not the then Governor of Illinois, who was a citizen of Chicago, would sign it.

The Public Utilities law worked all right until the war came on. Rates were reduced in many, many cities and localities in Illinois. Conditions were different then from now, and I dare say that there was not a more popular board in Illinois than the Public Utility Commission, and today, without question, there is not a body more unpopular. Sentiment has changed simply because the Commission was compelled to abrogate some of these contracts and allow an increase of rates, and that would be true with every local board where rates have been raised, and if the local board or city council did not raise the rates or change the contracts you gentlemen know that every one of these companies would be in the hands of a receiver.

I agree with the gentleman from Cook that something should be done to stabilize investments in public utilities. It is the hardest thing in the world today to get money to invest in public utilities. The Public Utilities Commission has abrogated these rates or the contracts, and in every instance where the change was made and the order was entered, an appeal was taken to the Supreme Court, which has been sustained, and it would be sustained in the United States Supreme Court because it would be contrary to the Federal Constitution, and there is nothing that you can put in this section that will change the Constitution of the United States. You cannot take a man's property in this country without just compensation and due process

of law. When I was with the Attorney General's office last year, in twenty-four cases in every Federal Court in this State and in about twenty State courts, where I went for the purpose of representing the Attorney General's office, where these companies had filed petitions for the purpose of setting aside the two-cent fare law, allowing them to charge three cents on electric railways, everyone of them granted the injunction allowing them to charge three cents, completely setting aside the statute on the ground that under the conditions it was contrary to the Federal Constitution of the United States. Those decisions were handed down by Judge Landis, Judge Carpenter, Judge FitzHenry and Judge English.

Now, that is not the fault of the Commission. It is the fault of conditions in this country. We all know, without argument, that if the contracts were correct and true when they were entered into eight or ten years ago when five cent fares were charged and when the gas and electric light rates were lower than they are now, that you cannot expect those companies—and I never represented one in my life during my twenty-odd years of practice—you cannot get compensation or pay the interest upon your bonds or pay the increased rates of your employees or your material or supplies, unless you get an increased fare. If you do not, you have the other alternative of receivership. That is the changed condition, and I maintain that you cannot cure that by any provision in this Constitution.

It has been said here that if you pass a twenty-year contract law that you take away from the politician and the office seeker an argument. Not necessarily. Have you taken away the argument from the man who is not in favor of the 18th Amendment to the Federal Constitution? If you think so, you have not read the reports coming in from San Francisco. That is an amendment to the Federal Constitution of this country, higher than ours. You cannot stop those arguments and you cannot stop a candidate for office from using that argument in an attempt to gain an office, and he will use the same argument that I am using here or that they are using out in San Francisco, that if it is not fair, if it is not a just compensation, there is always some way by which it can be set aside. If it cannot be done locally, it can be set aside by the courts of the State and of the land.

Now, then, it seems to me that this Section 7 should not go in this article. It is not only a question of rates, it is a question of service to be rendered. We all know that there are conditions that have been named in certain franchises with reference to the number of street cars that should run upon a certain street, whether they should run every five or ten or fifteen minutes. You might later want a different kind of service and the community might have a right to demand a better service than was entered into by the City Council ten or fifteen years ago. We all know that these contract ordinances have been entered into at times by city councils that were not just or fair to the public, and I am not one who is in favor of binding down the people for the city for twenty years or more by a contract that might not be fair to them. Many an ordinance has been passed in a city council the same night it was introduced. I know in the City of East St. Louis wherein a water franchise was passed. It was introduced at eight o'clock at night and passed by nine o'clock that same night, before anybody knew anything about it, and it is there today. But at the present time it is subject partially to the control of the Public Utilities Commission. Those things have happened, and they will happen again, and I do not believe this Constitutional Convention should bind down the people of any community to a twenty-year contract of this kind. They are made by representatives chosen by the people, but they make mistakes, sometimes wilfully and sometimes unintentionally. If it would at the same time stabilize the investments, I would be more inclined for it—and I have not now a single dollar in public utilities of the State of Illinois, and I am mighty glad of it because, to my mind, they are at the present time about the poorest investment that can be found. If anybody can get his money out of public utilities today, he will get it out at less than one hundred cents on the dollar.

Mr. SCANLAN (LaSalle). With reference to the statement as to the decision of the Supreme Court upholding the right of the Public Service Commission to increase the rate, is not the fact that that decision was rendered particularly on account of the fact that the Public Utilities Commission had the authority to abrogate a contract and increase the rate, rather than on the ground that the property valuation of such utility warranted the increase of rates?

Mr. TRAUTMANN (St. Clair). They are entitled to a fair compensation, and on that ground the court rendered the injunction in these two-cent fare cases.

Mr. CARLSTROM (Mercer). The argument of the gentleman from St. Clair is beside the issue. All these injunction cases were based upon enactment of law which compulsorily forces a rate upon a utility, not upon any contractual relation between the utility or the railroad and the State. It was a law passed by the State of Illinois, requiring, without regard to the consent of the railroads in this State, that they run at a two-cent rate, and the Supreme Court of the United States and the Supreme Court of Illinois, under circumstances where a law imposed an obligation upon a utility to furnish service at a rate that was proved to be inadequate, held that the utility was entitled to a rate under the circumstances that would not be confiscatory. That was the basis of those decisions, and it was not based on any contractual relation between the utilities and the public which they serve.

In my judgment, there can be no argument against this provision. It is my belief that the dissatisfaction on the part of the people of the State of Illinois arises from the fact that the principles of the contract, upon which human intercourse, economic and industrial, has been based since civilization began, has been violated and utterly disregarded. Contracts have been held binding insofar as they protected the rights of certain interests. They have been abrogated so far as they specify certain rights to other parties of the contract. My way of looking at this thing, gentlemen, is this: that if we re-establish the relation of contract between public service corporations and the people they serve, we bring about a condition of necessity which makes the people on the one hand and the representatives of the utilities on the other sit down across a table and deal with each other as you and I expect to deal with each other in the ordinary transactions of life, and when we enter into a contract we expect to be bound by the terms of the contract which obligates us, and we have a right to expect that the other party to the contract shall continue to be bound by its obligations in the same way.

Suggestion has been made here that the corruption of public officials will present the danger of securing a long-term franchise which will be inimical to the welfare of the people. I get back to this proposition: Any time, my friends, that when any people of this State, with the experience that we have had in the last fifty years, are unable to protect themselves, it is time to burn their fingers till they learn how. I believe in the proposition that when you turn a young man out in the world you must say to him, "Now, you must stand on your feet. You must learn self-reliance. You must learn to meet the problems of life and face them, and by so doing you will develop your character and your strength and make yourself worth while." I believe the people should be confronted with the same situation, and if they then act indiscreetly, they are placed in the same position as the individual who acts without discretion. They pay the penalty. I believe the people of this State should be satisfied. I believe, my friends, that we would not have had the public utilities situation in Illinois that we have today if, forty years ago, when these great concerns began to develop, we could have sat down across a table and dealt squarely with one another, and we would have solved this condition without this disastrous condition that is confronting us in Illinois today, both for the utility and the public.

I have in mind a special situation in my home town. It is not a big city. I do not believe we have an exceptional order of intelligence in our citizenry, but we did have a year and a half's fight with the public utility

that we deal with in our town, but it resulted, after a long effort, in a contract whereby we started out upon a fair rate basis, and in which it is provided that there should be, at stated periods, the question of rate readjustments submitted to three arbitrators, one selected by the company and one by the city and the third one upon whom the two arbitrators agreed. There is no reason why there may not be that measure of flexibility in all contracts so that they can practically adjust themselves to the conditions of the times, thus providing means of bringing equity both to the public utility and to the people, and furnishing a basis of contentment.

I believe this provision is right and just. It is based upon one of the most ancient doctrines in the history of civilization, the doctrine of contractual relationship. I believe that it is re-establishing in this State a recognition of the correct principle of dealing, one that will satisfy our communities and will afford the means of contracting upon lines that will be protective to both parties and conducive to a contented attitude on the part of the people. Forty years ago, twenty years ago, or even ten years ago, before we knew much about the public service utilities, there was great danger of inequitable contracts, greater than there is today. In the light of the experience of today, I think people can be trusted to make their own contracts that will insure fair dealing. I cannot see where it would violate any principle of law or justice.

Now, then, what happened to that contract that we spent a year and a half fighting for, and in which we had provided for this flexibility? Within six months after we had secured the signatures on the part of the company and the representatives of the city, it was set aside, the railroad company was released from carrying out this provision which it sought to have abrogated, and all the provisions to be carried out by the city were held to be binding. That is the thing that has aroused this discontent in the State of Illinois. I differ with the gentleman from St. Clair. I believe that if we put this proposition in here that it will rehabilitate the right and power and strength of the contract, and it will not be subjected to the holdings of the Federal and Supreme Courts of this State, which were based upon arbitrary restrictions by law, where the other party to the contract was not consulted, and, therefore, has a right to go into the courts and claim there has been confiscation by reason of the enforcement of this inequitable law. I think Section 7 should be incorporated in this Constitution.

Mr. LINDLY (Bond). I want to endorse what has been said by the gentleman from Mercer. I have thought a great deal of this proposition of abrogating contracts between the people and the utilities of the State. All of them have had their bad years and all of them have their good years, and we find that the only people in this country who are protected are the men in public utilities. For years they had contracts with our cities; they reaped rich rewards and millions of dollars went into their pockets. Everybody knows that the men interested in utilities were the men who became rich in this country, and the minute they get to a place where it is not so profitable to carry out their contracts with the city, they begin to abrogate, and I say here today, without fear of contradiction, that the men interested in public utilities are the only men in the country that can go to a court and secure six per cent on their investment by abrogating the contracts that they make, and I surely believe that this ought to be passed.

Mr. DEYOUNG (Cook). You say that the utilities have become rich in the years gone by, and that was all under municipal franchises?

Mr. LINDLY (Bond). Well, I think it was.

Mr. DEYOUNG (Cook). The franchises were granted by municipalities, and that was before the days of the Public Utilities Commission, and they became rich in years gone by? Is the answer yes or no?

Mr. LINDLY (Bond). I said they had, yes.

Mr. DEYOUNG (Cook). Under municipal franchises. There was no power to readjust rates or service until the Public Utilities Commission came into being?

Mr. LINDLY (Bond). No, sir.

Mr. DEYOUNG (Cook). And those contracts were carried out by both sides up to that time, and that was the hey-day of the prosperity of the utilities, was it not?

Mr. LINDLY (Bond). Yes, sir; and as quick as they commenced to lose a little money, why, they were not like us fellows on the farm, with two or three years of good crops and two or three years of bad ones. When they struck the bad ones they secured a law passed increasing their rates so they could get six per cent on their money, whereas men generally in business have to take their losses with the profits.

Mr. DEYOUNG (Cook). Is it, or not, a fact, may I ask the gentleman from Bond, whether or not the rates for services rendered by public utilities companies were reduced prior to the war by the Public Utilities Commission?

Mr. LINDLY (Bond). There were mighty few. You may cite one or two, but I know they have been increased mighty fast by the Utilities Commission.

Mr. DEYOUNG (Cook). Recently?

Mr. LINDLY (Bond). Yes. Nobody else losing money can go any place and get it.

Mr. DEYOUNG (Cook). The gentleman from Bond, I believe, was once chairman of the Railroad and Warehouse Commission of this State?

Mr. LINDLY (Bond). I was.

Mr. DEYOUNG (Cook). And I think the gentleman from Bond understands that the Public Utilities Commission does not have jurisdiction over produce that farmers raise and sell, does it?

Mr. LINDLY (Bond). A foolish question like that does not need an answer.

Mr. DEYOUNG (Cook). You said farmers did not have their prices changed.

Mr. LINDLY (Bond). That was a comparison. I said they took their losses and profits.

Mr. DEYOUNG (Cook). Precisely. The theory in the Public Utilities Commission is that the rates shall be adjusted equitably.

Mr. LINDLY (Bond). I think whenever they enter into a contract with the city they ought not to have the right under any conditions to abrogate that contract.

Mr. DEYOUNG (Cook). Those contracts, in your judgment, ought to remain inviolate no matter what the changed conditions may be?

Mr. LINDLY (Bond). The same as between you and me.

Mr. DEYOUNG (Cook). You will admit, then, that the illustration of prices of other commodities is quite beside the question because they do not come within the theory of the public utilities law?

Mr. LINDLY (Bond). I am citing the business proposition of men who get their money in different businesses.

Mr. DEYOUNG (Cook). But the local authority with reference to public utilities as fixed in the Public Utilities Commission of this State is quite different, is it not? The theory that we find now in this State is different with reference to this service?

Mr. LINDLY (Bond). That is the reason I am in favor of this, so they can't change it.

Mr. DEYOUNG (Cook). You want to put it back where it was?

Mr. LINDLY (Bond). I would rather have that.

Mr. TODD (Peoria). I don't know whether I ought to say anything or not. I am somewhat child-like in my thoughts on this question. I have been taking the word "home rule" and it has a good deal of weight with me. I have believed that the legislature should grant to the local communities all the home rule possible. I have watched apprehensively the movement taken by the legislature in creating commissions and boards which exercise, in my judgment, the functions of the local communities in self-government. I think the legislature has done that in response to a popular demand or outcry against the methods used by city councils and the local

governing bodies, and that in answer to that demand some years ago the Public Utilities Commission was created by the legislature and took from the local communities the control of those utilities.

I think that so long as the Utilities Commission took the side apparently of the people and abrogated contracts for the purpose of reducing rates, the people were well satisfied with the action of the Public Utilities Commission, and I think today the demand for a change comes from the fact that the Utilities Commission has been obliged to increase the rates, and that the general public are obliged to pay additional rates for the use of those utilities. If we write this section into the Constitution we are doing today for perhaps the next fifty years that the Constitution is adopted, something in response to a popular demand which may veer the other way in the next five years and be as strong again in favor of a central organization at the State capitol in control of this commission. If the gentleman from Bond's argument is correct, then I say for him to make his speech and the gentleman from Mercer before the legislature of this State and secure the repeal of the utilities law and restore to the people the rights that they had previous to that time. I am not arguing with that, but I say that is the place to make the argument they made here.

I say we would make a serious mistake to write into our fundamental law a provision as drawn here and submitted by this committee in Section 7. I hope that the Convention will not favor it and that they will leave with the legislature, as has been left in the past, the right to control these questions and to delegate, as the legislature sees fit, from time to time, the power that the local communities need to meet the demands of the day, instead of writing here in this Constitution an absolute rule which will govern the State for years to come.

Mr. REVELL (Cook). Do you believe in a contract as between man and man?

Mr. TODD (Peoria). I do, where each party has an equal opportunity to make the contract.

Mr. REVELL (Cook). Wherein comes this wonderful difference where a contract is made between two corporations, a public utility corporation and the other a municipality?

Mr. TODD (Peoria). I don't know whether I can answer that very clearly, but my thought upon that is this: We have seen fit in this country to adopt a republican form of government, which is admittedly less efficient, less economical, than an autocratic form of government, and when a corporation begins to deal with representatives of the people who are elected and who have to respond to the popular demand, you get a less efficient government, and they will represent you with less care and with less interest than do the representatives of a private corporation.

Mr. REVELL (Cook). Let me ask you this: Are you in favor of doing something that will bring the trend of average intelligence up, or taking it down? It seems to me, from your statement, that you are making a proposition which looks upon the people as dependents. It seems to me that much that has been done here and has been done in the laws tend that way. Don't you think it would be more fair and far better to regard the contracts as made between a municipality and a public service corporation in exactly the same light as one between you and me, compelling a municipality to use a degree of intelligence in the making of and regarding of a contract as may impose on them benefits or suffering? What are you trying to protect, the people from making absolute dependents of themselves, instead of helping them to see where their power lies? If they give attention to those things, they can get nearly everything from a public service corporation they want. They can do it in a legal way. The contract must represent exactly what both sides intend to do. Then make the municipality stand by the contract as you would make the public service corporation stand by it. I am not saying anything against the Public Utilities Commission. In great emergencies like those we have recently passed through, the Public Utilities Commission has and can do much good. It seems to me that if you maintain

that kind of a view, so far as the people are concerned they need pay no attention to the matter of making contracts, but just go ahead and depend upon a commission to care for the whole matter.

Mr. TODD (Peoria). I don't know whether you want me to answer that question yes or not.

Mr. REVELL (Cook). Pardon me for going ahead at this length, but I saw an opportunity to try to place this matter where it seems to belong. It seems to belong in a place by which we would protect and throw every possible and in many cases unnecessary protection around the people, making them weak instead of doing those things which would call upon a community to insist upon a contract the same as you and I would make it as between ourselves. The fact that a most important contract was made in East St. Louis or in any other part of the State in forty minutes does not impress me for one moment. It only makes me think that in East St. Louis, or in any other place where that can be done, there was an opportunity for a lamp post and a rope.

CHAIRMAN HULL. I just want to state my own position in this matter. The problem is an exceedingly difficult one. I am not satisfied with this section, and yet I find it easier to criticize than I do to present a constructive suggestion on that subject, and I think that was the way the thing worked out in the committee. It is easy to see how it may lead to injustice in the future and it is perfectly easy to see, as suggested by the gentleman from Mercer, how the present order of things leads to injustice. The perfectly patent thing is that the people have to have service, and we have either to go to a programme of municipal ownership and give service that way or we have to make it possible for capital to do business, and as contracts are the instrument of civilization, the means of going forward and giving certainty to things, the contract method seemed the simplest solution of the difficulty. I say this simply to get my own opinion before you, because, as I say, I am not satisfied with this, and yet, I have not been able to find a different solution of the question.

Mr. RINAKER (Macoupin). If I understand you correctly, with all the time the committee has spent on the matter and the investigation you have made, you are not satisfied with this solution or this proposition as it is presented here?

CHAIRMAN HULL. I voted for it in the committee, and yet I felt there is some doubt about the wisdom of its provisions, and yet I am perfectly willing in this committee to come to a conclusion. I did not want to debate on it any further with myself.

Mr. RINAKER (Macoupin). If with all this investigation and your ability in the matter the matter is still in a doubtful condition, do you think that it is wise for this convention to crystalize this particular unsatisfactory solution into a constitutional enactment that shall be permanent until the Constitution shall be revived or amended, or a new Constitution adopted? Isn't that running altogether too great a risk?

CHAIRMAN HULL. I said I was willing to come to a conclusion even though I am not absolutely certain in my own mind. That is the way I want to answer your question.

Mr. RINAKER (Macoupin). May I say, further, that it seems to me the answer is not a satisfactory answer to the question that I put. The responsibility is upon us to write into the Constitution something that shall not be a temporary experiment without a settled line of conduct that in our judgment is safe for a long period of time. There have been so many of these different proposals, phrased in very much the same way that this question which is here submitted, that it seems to me that it has demonstrated the unwisdom of putting it into the Constitution at all but of leaving to the legislature, to try and put this experiment under some delegation of power of the legislature, which I am not prepared to suggest. It may have it already—I am not discussing that—but do that and try out the experiment of diverse plans all over the State. It seems to me that this

whole article, if adopted, as has been so well said by the gentleman from Champaign, would turn back the wheels of progress for fifty years and put us back into a position where, under another form, we would be trying out all kinds of experiments all over this State. We would have as many little sovereignties as there are municipalities in the State, each sovereign and independent to a certain extent, trying out experiments on different lines, with absolute confusion, getting us right back to the condition that was one of the principal reasons for the adoption of the Constitution of 1870, as I understand it, that we should get away from a diverse plan of operation of all the matters that were then covered by special legislation, and get uniformity, so that instead of having any number of little kingdoms in the State of Illinois, we would have one great, big State, one great big Government, and all of us going along together, correcting where we find a mistake.

CHAIRMAN HULL. Are you speaking on this section?

Mr. RINAKER (Macoupin). Possibly I may have strayed a little bit. May I say, if I have transgressed this time, I, at least, have not taken up very much time to-day.

CHAIRMAN HULL. I want to say further that the one objection that occurred to me in connection with this was the suggestion that had been made that we were on the high peak of cost, but the suggestion made by the gentleman from Mercer with respect to the contract that his community made with the rates adjustable from time to time offered to my mind a solution. The contract should not be made for a uniform rate for the entire twenty years. I have in mind now the contracts that are made by the power company at I believe they are making contracts subject to the price paid or which they contract to pay every ten years for coal. So the difficulty with reference to the rates fixed now by any contract ought to be met by the terms of the contract itself, and as contracts are the stabilizing force of civilization, it seemed to me the contract was the way out.

Mr. MAYER (Cook). Is it not the province of the Convention to supply the opportunity or making an opportunity to make changes in the contracts?

CHAIRMAN HULL. That furnishes a means whereby the contracting parties may protect themselves, by entering into a contract of that kind.

Mr. MAYER (Cook). What I was aiming at, isn't the idea in that respect to provide a method of obtaining a method of modification and changes in rates as conditions change?

CHAIRMAN HULL. I have no doubt that is one of the theories of the public utilities law, but as explained by the gentleman from Mercer, where they have made contracts adjustable at certain periods, the Commission has apparently gone in and changed the rates contrary to the contract.

Mr. MAYER (Cook). Would you consider that that was a sufficient reason for making that provision in the Constitution, because of some situation of that kind?

CHAIRMAN HULL. I am speaking now for myself and nobody else, that this furnishes a reasonable way to meet the problem. I do not know that I can answer the question any further than that.

Mr. DEYOUNG (Cook). In view of the suggestion that you thought of periodic fixing of price in one of these contract ordinances would solve the problem, and also with reference to what the gentleman from Mercer said with reference to the experience in his own community, I am compelled to occupy your time very briefly, if I may, on this subject.

Let me say, gentlemen, by way of preface, that I have represented one village continuously from the day I began to practice law, a little over twenty-two years ago. I represent that village to-day. It has fallen to my lot to represent not less than nine different villages in Cook County and one city that I represented for twelve years, so I believe I am not altogether a stranger to municipal administration. I may say also, if I may be permitted, that at no time in my professional career did I ever represent a public utility, and my only appearances before the Public Utilities Commission, as the records will disclose, have been resisting applications for increases in

the last two years since the war prices have brought about those applications. I say this merely by way of protestation so that you may have the proper background.

These nine different villages and this one city all have contracts with public utilities of one kind or another. I remember at one time, before I became city attorney for that particular city in which I live, a certain gentleman who had been in the real estate business for a while made his appearance in that city, as well as in other neighboring villages, and in a remarkably short space of time he acquired a number of gas franchises, all of them running for forty years, and all of them identical in terms, or substantially so, with the exception of the name of the municipality. They were all identical as to rates, and it was my interest as well as my curiosity to see, after he had acquired these ordinances, a man with no resources, in the short space of two years had become a millionaire, and has to-day left that part of Cook County and lives in the East.

All of this is the result of some of our municipal administration. Certainly my sympathies as well as my duty were on the side of these municipal bodies. To say that the creation of the Public Utilities Commission makes infants of these bodies is quite beside the question, because experience has demonstrated, not only in municipal administration but in so many other activities of life, that we must be checked. To say that the village board or the village trustee, whose tenure of office is limited to two years, and some of these small villages with a population varying from three hundred to a thousand, whose affairs are in the hands of mechanics and men of that type—good men, whose integrity I would not question for a single moment—at least, in most instances—but men who are as capable of passing upon these rights as I am capable of performing a surgical operation—to say that a village board of that type, without light, without information, without the facilities that are necessary in order to cope with the people on the other side who have these facts, who know what they want, and who say, thus and so we want, is capable of handling the matter competently is to ignore altogether the experience of these municipalities.

CHAIRMAN HULL. Were you attorney for these municipalities?

Mr. DEYOUNG (Cook). Not at that time, except in one case where I protested and had protested for some months, when there was a change in the majority of the board, three new trustees and one appointed to fill a vacancy, and these four new men in less than twenty minutes had granted a gas franchise for forty years. In none of these cases had I been the village attorney, except in this one, and it was done in this case over my protest. In all these other cases the ordinances had been granted before I was the attorney. They might have done it just as well had I been the attorney, but I merely say this to show that I was not a party to it. And in not a single one of these villages or that city did two years elapse until there was criticism and complaint on a part of a considerable portion of the people against the provisions of those very ordinances.

Now we are told that the Public Utilities Commission—and I am not here to disagree with it—has, without any regard set aside the provisions which were in the interest of the people and has sustained those provisions in the interests of the utility. I know by experience that that is not true. I know that prior to the high prices induced by the war and war conditions there were a great many reductions in rates. I know that in the very city in which I live, way back in the year 1891 the community was incorporated only a few minutes before a water franchise was granted for thirty years. It was then a village. The population was barren. It had very little to exact. It wanted a water service and obtained, but obtained it upon conditions that no sensible man and no reasonable man, when ten years had elapsed, would have granted that authority. One of the provisions of this ordinance was that there would be no extension of mains except upon the compliance with certain requirements, conditions with which the city today cannot comply, and if it had not been for the Public Utilities Commission,

considerable portions of that city today would be without water service. What did we do? Until the Public Utilities Commission was organized we were helpless. We could not by mandamus, we could not by any provision known to the law, compel the extension of these water mains, but when the Public Utilities Commission was created, in defiance of the very terms and provisions of that ordinance, we went before that Commission. What did the utility say? They said, "Why, you are seeking here to get an order in violation of the very terms and conditions of this ordinance granted in 1891." We said, "Yes, but we think we have a perfect right to demand it, and we think there is now in the State of Illinois a body that will compel these extensions." What did the Commission say? The Commission said, "Yes, you do seek to violate the terms and provisions of this ordinance, and it may be true that the particular extension sought in this application will not yield to the utility a revenue within the next two or three or even five years, but there is a need for this extension." And those extensions were ordered, and today we are getting a service that is valuable to the city. We are getting extensions of these water mains to all portions of the city, and parts of the city that were barren before are now building up and the city is spreading out and increasing in size.

Speaking about extensions, in the matter of electric light service the same thing was true. Let us have the story altogether. Let us have some of these examples. Reference has been made—and I think it is largely a matter of theory rather than practice, because I know something about the negotiations which resulted in the thirty-five year grant to the traction company that operates in our city. The aldermen tried time and time again to get a periodic revision of rates. It was impossible. The utility said, "We want these rates fixed for thirty-five years." They took good care to go about and encourage a demand among the people for street car service. The emissaries of the utility called on the house-wife and said to her, "You want gas for fuel purposes?" Certainly, they all wanted it for fuel purposes as well as lighting. The village trustees were impressed. They read over the ordinance, which contained some very flowery language in the preamble about the great service the utility was to render, and all the energy of which the president and the village attorney were capable resulted in absolutely nothing. They granted that ordinance in a very short time, but since then they have had occasion to apply to the commission for relief in more respect than one. In 1908 the rate was fixed at \$1.10 a thousand, and when the Public Utilities Commission came along, the rate was reduced and the service extended.

I hold no brief for the Commission. My only appearances before it, as I have said, have been in resisting applications for increase of rates. But I must protest against the insinuations that have been uttered here and in other places against whom I believe to be an honorable body of men, seeking to do their duty and do it ably and do it when sentiment is running against them, when the performance of their duty at the present time is extremely unpopular and it requires courage and a sense of justice to perform it. These men have exercised courage and judgment. They may have made mistakes, but the fact remains that conditions over which they had no control have made these changes necessary. It is not only the matter of rates. We know that it is largely, too, a matter of service, and I take it that to incorporate this in the fundamental law of Illinois upon the same theory that village boards and city councils will provide in a twenty-year grant a revision of rates, is to my mind largely mythical, because in every one of these ordinances of which I speak I find in very few of them—it is almost negligible—where the experience of the past has led them to incorporate such provisions in these ordinances.

We ought to consult our experiences and we ought to be guided by them. I believe that the real interests of the community is served by leaving the law stand where it is, not by putting into the fundamental law of our State

provisions that ordinances which in many villages will be passed without discretion and care and caution which important ordinances of this kind demand—it seems to me that we are taking a step backward if we say that once and forever these contracts shall be inviolable.

This is a serious matter, and I hope, gentlemen, that you will not embark upon this project. The Chairman says—and there is no man for whose judgment I have more respect—not only here, but when he was in the General Assembly—that this is not a full and final solution, but the best they have been able to work out. And the problem is indeed intricate. I believe that we are incapable of giving it the right solution for a long time. It is a matter which is of vital concern to the villages and cities of the State, and we should proceed with great care and caution.

I think that Section 7 ought to be eliminated altogether from this article.

Mr. REVELL (Cook). You think there ought to be a commission in this State to protect the weakness of the village authorities who made such a contract as you have referred to?

Mr. DEYOUNG (Cook). I don't know that that must take the form of a commission. It is now a statutory matter, and as experience shall give us more light there may be changes, but to incorporate a scheme in the statutes is one thing and to put it in the fundamental law is another thing.

Mr. REVELL (Cook). Don't you think it would be much better for the people of the State of Illinois who have such municipal officials to undergo the suffering they impose on themselves, in order to acquire the intelligence to select, in advance of making such contract a second time, intelligent men, such as you are, to aid them and to protect their interests?

Mr. DEYOUNG (Cook). I am very glad the gentleman asked the question. The first answer to it, as you know, is that in most villages the tenure of office of the trustee is short, in deed. Those who do not render a spectacular service are retired at the end of their first term, and the tenure in these villages is not long in any case, so that the experience which one certain trustee might acquire is not bequeathed to his successor. It seems to me that it is too big a price to pay. It would be the same as a man having himself killed on a railroad to find out what the experience is. There are many things against which we must protect ourselves.

Mr. JARMAN (Schuyler). I wish to submit an amendment.

AMENDMENT No. 11.

Amend section 7 by inserting after the word "utilities" in line 4, the words, "to such municipality or" and after the word "people" in line 4, insert the word "thereof" and strike out the words "of any city, village or incorporated town" in line 4, after the word "people."

Mr. JARMAN (Schuyler). As the section is amended it would do away with the construction that contracts for the furnishing of service to municipalities would include as well service to the people. That is, for instance, if you made a contract to supply the municipality with street lighting, that might not necessarily mean to supply the people. It does not destroy the original language except that it provides a contract for the municipality in addition to a contract for the people.

(Amendment adopted.)

Mr. JARMAN (Schuyler). I submit another amendment.

AMENDMENT No. 12.

Amend section 7 by inserting after the word "inviolable" in line 6, the following words: "and when such contract shall be for a term of more than five years, the same shall be submitted to the electors of the municipality and approved by a majority of those voting thereon."

Mr. JARMAN (Schuyler). It simply means that any contract extended for a period of five years shall be submitted to the vote of the people.

(Amendment lost.)

CHAIRMAN HULL. The question is now on Section 7 as amended.

Mr. SUTHERLAND (Cook). I move we adopt section 7 as amended.

(Motion lost.)

CHAIRMAN HULL. Section 8 is next.

Mr. DUPEE (Cook). This section in regard to zoning is not intended to provide for the separation of races, as suggested the other day, nor is it intended to operate for aesthetic purposes. It is a practical measure, calculated to be of advantage to industrial property, to factory property as well as to residential property. In fact, it is simply an arrangement for the orderly development of the growth of the cities. It is not retroactive in any sense and does not seem to disturb existing conditions anywhere, but is to cover the municipal development of municipal corporations in this State. The zoning system is now in force in a number of cities. New York City has it, Milwaukee, St. Louis, Cleveland and a great many others. Massachusetts entered the ranks of zoning states last year when the General Assembly adopted an act providing for this system. The City of Chicago has passed an ordinance to carry out the zoning principles conferred by this act of the legislature. The City of Evanston is now proceeding with a zoning project, the City of Oak Park, and the City of Joliet I am informed have a zoning measure pending.

Now, on the question as to whether it is necessary to say anything in the Constitution about zoning. Assuming we have committed ourselves to the principle of zoning and some of our municipalities wish to carry out zoning, is it necessary to say anything in the Constitution? Only one state has a constitutional provision on the subject. The State of Illinois is considered, by reasons of the decisions on the police powers heretofore rendered in this State, as not likely to be favorable to the exercise of the police power for this purpose, and it seems prudent to back up the power of the legislature by a constitutional provision. This Section 8 has been drawn with great care. Its language is virtually that of the legislature. It is virtually that of the constitutional provision of 1918. Lines 4, 5 and 6 are taken from the Massachusetts constitutional provision, and it is believed that it is highly desirable to have some security in a constitutional way in this State on this question. This provision recites that it shall apply to any statute or ordinance heretofore passed. The purpose of that is to take in and give effect to the Act of 1919 and to any proceedings that have been had in any of the municipalities of Illinois, and they have a number of them under that Act.

In the case of *The People v. The City of Chicago*, 261 Illinois, it was stated by the Court that there is ground for believing that without a constitutional provision the Supreme Court would doubt its power to apply the police power of the State to the zoning provision. In the California courts, a zoning provision more stringent than anything in the Illinois act, namely, a retroactive zoning ordinance, was passed and was upheld by the Supreme Court of the state of California, and afterwards was upheld by the Supreme Court of the United States in the case of *Hadacek v. Los Angeles*, 209 U. S. Reports, page 294.

The purpose of this provision in the Constitution is to make it safe to act under the powers which the legislature has heretofore granted to cities, and it is believed that it is so drawn that it does confer that power. It may be somewhat lengthy but I do not believe it can be shortened very materially without destroying its efficiency.

Mr. DUPUY (Cook). I should like to move to strike out of line 9 the words, "This provision shall apply to any statute or ordinance heretofore passed."

With the general object and purpose of this section I am in entire sympathy. I have no objection to this being in the Constitution, but I am very much averse, on my own part, to voting in and putting into the constitution ordinances and laws on that subject without knowing what

they are. There are many municipalities, we are told, that have passed laws of this kind. It seems to me it would be taking a step in the dark to confer constitutional protection to those laws without knowing what they are. The matter can be safely taken care of by the legislature, and I therefore move this amendment.

Mr. DUPEE (Cook). In order to meet the amendment of the delegate from Cook I offer this amendment, "Whose provisions are within the terms of this section."

CHAIRMAN HULL. Do you want to permit that amendment to come in before your motion to strike out is put?

Mr. DUPUY (Cook). I still would be very much in the dark about what that would mean. I think I cannot accept the amendment.

Mr. DUPEE (Cook). As amended, the sentence would read: "This provision shall apply to any ordinance passed." It seems to me that with this amendment added there can be no possible doubt about any ordinance in the past having the effect to carry out or authorize zoning of any kind, unless it is such a law as could have been passed after the enactment of this statute.

CHAIRMAN HULL. Will this section give validity to the zoning laws that were passed at the last session?

Mr. DUPEE (Cook). It will, yes, sir.

CHAIRMAN HULL. Is that the purpose of that particular line?

Mr. DUPEE (Cook). That is the only purpose. The legislature passed that act in 1919 and four or five municipalities in Illinois have proceeded to act under it, and it is to save that act that that line is inserted.

Mr. DUPUY (Cook). I suggest, as a point of order, that the so-called amendment is not an amendment but a substitute. My motion was to strike out.

CHAIRMAN HULL. Your point of order is well taken, and the motion will be put.

(Motion lost.)

Mr. DUPEE (Cook). I offer the amendment.

Mr. BARR (Will). Is it your purpose to validate city ordinances that may have been passed under the present zoning act?

Mr. DUPEE (Cook). It is my purpose to validate the ordinances that have been passed under the present Zoning Act which was passed by the Fifty-first General Assembly.

Mr. BARR (Will). I desire to say in connection with this amendment that I gave this matter no attention until it was presented here just now, but I do know that in the city from which I come, Joliet, the city authorities have proceeded under the Zoning Act and have spent some money, and I am sure they passed an ordinance providing for an investigation and laws along the line of the zoning amendment, and with the explanation of the delegate from Cook that the purpose of this line and the amendment is simply to validate the statute and those ordinances, it seems to me that the amendment should prevail, so that ordinances in cities that have proceeded under the present Zoning Act might be held valid and competent.

Mr. DUPEE (Cook). That is the only purpose.

Mr. BARR (Will). We have proceeded and have taken some steps and have spent some money and have made some advances along the lines of zoning, and I would dislike very much to see what has been done rendered invalid.

Mr. TAFF (Fulton). May I inquire whether any cities prior to 1919 have attempted to pass zoning acts?

Mr. DUPEE (Cook). I am informed that no cities have undertaken to do so; that at the time at the Act of 1919 when it was pending before the legislature, the statement was made that a number of cities desired to proceed with zoning and they did not feel they had the power to do so until the legislature had passed on this question.

Mr. TAFF (Fulton). Then I understand that this does not attempt to validate any zoning laws except those passed by the General Assembly of 1919?

Mr. DUPEE (Cook). That is all.

(Amendment adopted.)

Mr. DUPEE (Cook). I move to adopt the section as amended.

(Motion prevailed.)

Mr. DAVIS (Cook). I move that the committee do now rise and report progress.

(President Woodward, Presiding.)

Mr. HULL (Cook). The committee having had under consideration Proposal No. 274 now reports progress, and I move that its report be adopted.

(Report adopted.)

Mr. RINAKER (Macoupin). I desire to present a partial report from the Committee on Bill of Rights.

THE PRESIDENT. Under the rules, the report of the committee will be printed and lie on the table.

Mr. HAMILL (Cook). I move that this committee do now adjourn to tomorrow morning at nine o'clock.

Mr. REVELL (Cook). If the delegate from Cook will withhold his motion for a few moments, I wish to give notice of a motion or resolution which I will present to the Convention on next Tuesday morning, providing that when we adjourn we take a recess until the 11th day of November next.

THE PRESIDENT. The question is upon the motion to adjourn to tomorrow at nine o'clock.

Motion prevailed and the Convention adjourned until Friday, June 25, 1920, at nine o'clock a. m.

FRIDAY, JUNE 25, 1920.**9:00 o'Clock A. M.**

THE PRESIDENT. The Journal of June 23, 1920, has been placed on the desks of the delegates and is now subject to correction. There being no corrections proposed, the Journal of Wednesday, June 23d will stand approved; and it is so ordered.

Mr. DUNLAP (Champaign). Mr. President, report from the Committee on Agriculture on Proposal No. 373, that was referred to the Committee of the Whole, offered as an amendment to the legislative article and adopted, and in order to clear the calendar I move that the proposal be recalled from the Committee of the Whole and lie on the table.

THE PRESIDENT. It is moved that the proposal be recalled from the Committee of the Whole and lie on the table, the substance of the proposal having been written into the article by the Committee of the Whole.

(So ordered.)

Whereupon the Committee on Rules and Procedure submitted its report.

Mr. WOODWARD (Cook). I have a petition signed by a large number of citizens of Oak Park addressed to the Convention pertaining to the article on Home Rule, which I would like to present on behalf of those citizens.

THE PRESIDENT. Does the delegate desire to have the petition read for the information of the Body?

Mr. CORCORAN (Cook). I also have a petition on the same subject.

THE PRESIDENT. It will be referred to the Committee of the Whole for consideration.

The Convention will resolve itself into the Committee of the Whole for the purpose of considering matters on the general orders. The Chair delegates Delegate Hull to act as Chairman of the Committee of the Whole.

(Whereupon the minutes of the session of the Committee of the Whole of Thursday, June 24, 1920, were read and approved; and the Committee of the Whole resumed consideration of Proposal No. 374, Section 9).

Mr. SUTHERLAND (Cook). I have a slight amendment to Section 9, which I offer.

AMENDMENT No. 15.

Amend Section 9 by inserting in line 5, after the word "thereof," the words "proposed as therein provided."

Mr. SUTHERLAND (Cook). I move the adoption of that amendment.

The section reads: "The charter framed by the Convention and all amendments thereof shall be submitted to and adopted by the voters of such city, town or village in the manner provided by the Convention." The language as it is left here may cause some doubt as to how amendments to the charter may be adopted, and might leave room for adoption of proposals to the charter by some other means than the charter itself.

Mr. HAMILL (Cook). Doesn't your wording leave the inference that amendments may be adopted by some other means than submission to the people, provided they are not made as proposed in the charter itself?

Mr. SUTHERLAND (Cook). I think if the gentleman will write the proposed words in, he will see that that is not the case.

Mr. HAMILL (Cook). You require that all amendments to the provisions as therein provided shall be submitted.

Mr. SUTHERLAND (Cook). Yes.

Mr. HAMILL (Cook). Which leads to the inference that amendments not therein proposed need not be submitted, you mean to require that amendments shall be made in accordance with the charter?

Mr. SUTHERLAND (Cook). Yes.

Mr. HAMILL (Cook). This does not so require.

Mr. SUTHERLAND (Cook). I think, in conjunction with the rest of the paragraph, that would not be so. For one, I would be perfectly willing to have this pass upon the merits, and then if the gentleman, as a member of the Committee on Phraseology and Style, thinks we have not enlarged fully on the words provided for the carrying out of our intention, we will be very glad to concur in any report of his committee. This language is as definite as the Chicago and Cook County and Municipalities Committee could make it. We wish to leave it so that the method of providing the amendments would be stated in the charter, as the method of making constitutional amendments is stated in the Constitution itself.

I do not think there is any definite question but I think it is one that will come before the Committee on Phraseology and Style and we will be glad to have their advice, but it is not a substantive matter.

Mr. HAMILL (Cook). I just wanted to find out the intention.

Mr. SUTHERLAND (Cook). The intention is that the amendments will only be made in the manner provided for in the charter, and that all amendments be submitted to the voters.

Mr. CORCORAN (Cook). Before the Municipal Government Committee it was the understanding that the last four lines of that paragraph were to come out of our report. Therefore I move that they be stricken out of this report.

CHAIRMAN HULL. Those lines were, so far as the Chicago members are concerned, put in out of respect to the wishes of the Chicago employees, who feared that in the formation of a new municipal government organization, men who had been in the service a long time would be dropped, lose their priority.

Personally I had little apprehension on that score, but I felt as a matter of expediency, if you want to call it political expediency, such assurance as could be given to them by this Convention, if any such thing was likely to occur, should be given to them, under some such form as this. Of course no mandatory provision could be put in.

For that reason it seems to me it was a wise thing to put this in. I am confident that in the joint committee meeting this was submitted to both committees, and at the subsequent meeting of the Municipal Government Committee.

Mr. CORCORAN (Cook). Don't you take care of that in the first section, "subject to existing laws"?

CHAIRMAN HULL. That relates to the powers of the city.

Mr. CORCORAN (Cook). They cover that in the other section.

CHAIRMAN HULL. No, except as otherwise provided in this article.

Mr. CORCORAN (Cook). I still make the motion to strike those lines out.

Mr. CARLSTROM (Mercer). I do not like to see this provision stricken out of this article. I come from a city where they do not have Civil Service, and I know something of the conditions in Chicago, because some of my friends are on the Civil Service roll. That is especially true of the veterans of the Spanish-American war, who came here to the legislature and after a long fight secured the privilege of one point on the Civil Service roll, that is, if there were two men on an equal standing, the veteran would be entitled to one point preference and would be given the appointment.

I know these men have labored long in the service of the Police and Fire Departments. I know they will feel seriously injured and hurt and will lose faith if we do not definitely recognize the service and existing conditions.

While it does not affect me, it affects a great number of employees in Chicago whose interests I would not like to see jeopardized, after we have secured it. I feel it is a preference that we stand for. It may possibly be that under the first paragraph of this law it is protected but in order that there could be no doubt about this matter, this provision should stay in, and I trust it will not be stricken out.

Mr. DUPUY (Cook). I notice on looking around I find that several of our Cook county members have gone home. This may be a controversial paragraph, and I move that further consideration of this section be postponed until Tuesday.

Mr. LINDLY (Bond). I hope the motion will not prevail. If the result is not satisfactory, on second reading they can take it up and dispose of it. If you do that kind of work here, we won't accomplish very much.

CHAIRMAN HULL. I said to the President of the Convention that I was entirely willing to go ahead with this, provided we did not get into any controversial matters, on a rump Convention. It seems to me unwise to come to conclusions on contentious matters. I believe it would be unwise. I don't think any question of a quorum ought to be raised if we can make any progress on anything which is not contentious. The contentious matters, I believe it is unwise to attempt to settle, even in this Committee of the Whole.

Mr. DUPUY (Cook). I think I shall also include Sections 10 and 11 in that motion. We can take up the next order of business without any difficulty, probably. There is considerable matter in the Bill of Rights about which there is no controversy, and all of the matters in the Bill of Rights which are not controversial can be taken up. All of the matters in the Bill of Rights which are copies from the old Constitution can be taken up and considered without any controversy at all. That will enable us to investigate as to the rights of this thing here and pursue our work very orderly and in a businesslike manner.

Mr. LINDLY (Bond). The only reason I made that statement was that we had under consideration when the Chicago delegates were here this proposal, and if they deliberately vacated themselves from the hall, it seems to me we ought not to postpone the consideration of it for them to come back.

Mr. DUPUY (Cook). Not in regard to the striking out.

Mr. TAFF (Fulton). I am opposed to the postponement of the consideration of any matters that come before the Convention this morning. I think we should proceed with the consideration of all matters that are properly before this Convention. If the delegates to this Convention have absented themselves from us, we should not give consideration to that fact. If the matters done here this morning are to be binding, we should proceed; if they are not to be binding on this Convention, we should so understand it. If we are simply to be here for the purpose of having a social chat amongst ourselves, we should understand that. We should go ahead and do the business of this Convention promptly. That is what we are here for. I believe we should go ahead with the proposal.

Mr. ELTING (McDonough). I believe we should go ahead with this proposal. We have been coming here and meeting on Fridays all during the time since this Convention started, and we have been lenient and accommodating to various people who have taken it upon themselves to be absent from this Convention and this meeting. I think we should have certain days fixed in which to meet here and transact business, so if people see fit to stay away and not excuse themselves for their absence, we could proceed with the regular order of business.

Mr. TRAEGER (Cook). I want to ask a point of information in regard to the Civil Service clause in here. Is there any other portion of this that protects the Civil Service employees other than this provision?

CHAIRMAN HULL. No, there is no article other than that.

Mr. TRAEGER (Cook). I want to say a word for the Civil Service employee. We have in the City of Chicago about fifteen or eighteen thousand

Civil Service employees, policemen, firemen, clerks of courts, engineers and the various trades and crafts. Some of the men have been fifteen, eighteen and twenty years in their employment, protected by a Civil Service law. Change of administration cannot sever them from the positions which they hold. Would it be just for us at this time to take those men who have put in these long years of service, and throw them out to make them compete with younger men? Younger men, who are aspiring to those positions, and securing them probably through political influence or otherwise?

I do not believe it is just to those men. While I personally myself am not necessarily in favor of Civil Service, I believe that we can get along without the service altogether and get good service, but you have passed a law, you have got the law, those men who have taken the competitive examinations with you and me and others, should not be taken and thrown out at this time. I believe some clause should be in here to protect them.

I am not sufficiently familiar with the conditions in here as to whether there is any other portion of this article that protects them or not. I sincerely believe that they should be protected, and I hope every man in this room will feel as I do along those lines.

Mr. CORCORAN (Cook). The first thing we say here is we want to give the cities Home Rule, then they say they are not going to do this thing and throw their old, experienced employees out. Why should we keep a lever on them? They want complete Home Rule, and if they want complete Home Rule give it to them. Let them make their own rules, let them make their own Civil Service; if they want to take it up again, all right.

Mr. SUTHERLAND (Cook). Two or three days before the question of holding the Constitutional Convention was submitted to the voters in the Fall of 1918 I stepped into a public office in the City Hall, which happened to be under the control of the county and not of the city service, nevertheless the employees in that office were under Civil Service, and the first thing that was said to me by those gentlemen in asking about the Constitutional Convention was this: "The plan is to do away with Civil Service, we are against it."

I spent several minutes convincing them that Civil Service was not to be touched at all, that there would not be any attempt to do away with Civil Service. I merely cite that to show the apprehension that was felt, naturally as to all groups, as to whether or not the present Constitution is going to change their status.

Now, gentlemen, we are giving certain Home Rule policies to the City of Chicago in this section which are not to be changed by the State law. They are matters purely local in character, such as the framework of the local government and how the powers of local government should be distributed. Now it might well be held that the conduct of the public office and whether or not the employee should be under Civil Service should be a part of those powers. It has been stated, and I think properly stated, that the opening clause of Section 1 applies to Section 1 only, and not to the rest of the sections, and the amendment offered and adopted by the delegate from Rock Island further carries that limitation.

Now, Mr. Chairman, perhaps it is necessary to reassure the employees of the City of Chicago that they will be under the sovereign power of the State, guaranteeing to the employees certain tenure of office if their service is faithful and proper, and it should be kept in continuation so that there may be no apprehension as to whether their rights would be lost by the adoption of a new Constitution. No harm is done by writing this into the Constitution. It will not disturb the existing conditions, and I do not think any man will argue that it will. I hope the amendment will not prevail.

Mr. CORCORAN (Cook). As I read this, this does not protect the present Civil Service employee. It simply says that they shall carry it on according to the general plan. Where they have adopted Civil Service, they will go ahead and make another plan. That does not protect the Civil Service employee

"Where the act to regulate the Civil Service of cities has been heretofore adopted, rates of compensation, as well as conditions of appointment and promotion in the Civil Service of the city shall be determined according to a general plan, which shall recognize merit and fitness as controlling principles."

It does not protect those in office now.

Mr. SUTHERLAND (Cook). That section protects their rights as well as they can be protected under the Constitution. It would be highly improper to make rigid any existing statutory laws. A statutory law often is modified and changed. The Civil Service Act has been amended from time to time. Other amendments may be necessary. They very properly can be made by the city.

Under this section of the proposed article such acts have not only been repealed but we lay down the principle that merit and fitness shall be the controlling principles in determining the plan of the selection of public employees and their retention in the public service—a Constitution can do no more than lay down a public principle. That is all we can do here. If we don't do it, then we arouse a natural apprehension in the breasts of the employees that they are not safeguarded.

(Amendment lost.)

Mr. DIETZ (Rock Island). I move Section 9 be amended by striking out all of the second paragraph of Section 9 except the last line of that paragraph; and I move that the last line of that paragraph be amended by changing the word "other" to "all."

Now, gentlemen of the committee, there has been, so far as I am advised, no demand, certainly no demand down State, under the demand for a Home Rule, for the adoption of any charter or any ordinance that would be in conflict with any laws of the State. If it becomes necessary to grant to cities like Chicago the power to adopt such charters and enact such ordinances, that will be in conflict with the laws of the State, that is a matter that can be considered when that particular question, confined to that particular city, arises.

But certainly we do not want to subject the State of Illinois to the humiliation that would necessarily follow from having villages and towns enact laws and charters with respect to the matters defined, if they can be said to be defined, or if ascertained by the courts, in this paragraph referred to.

What does this mean? How long would it take the Supreme Court of this State to determine what it does mean? Ordinances and charters which relate to the organization of the government of any city, which relate to the distribution of power among the official agencies of such city or to the tenure and compensation of individuals in office. Why, that is a contradiction in terms with the remainder of the section, the paragraph that was sought to be stricken out by the amendment just defeated on the floor. You cannot have two sovereigns. Certainly it would be as unwise to have as many sovereigns as there are cities and villages and incorporated towns in the State of Illinois.

If this section has any good in it, if it is necessary at all to allow cities to have charters of the sort indicated by the first paragraph of this section, I am perfectly willing to yield that far, but I am not willing to concede that without limitation that all of the towns in the State of Illinois may hold charter or constitutional conventions without limit or without regard to order or uniformity or regularity as to their form of government at all. If we want to go from one town to another village or city, before we can determine our rights, must we dig into the charter provisions and look into the archives of that city to determine where we can look for the foundation of our rights? Certainly not. There ought to be some uniformity about everything. Certainly there ought to be some uniformity about city governments. A whole lot better would it be to allow the General Assembly to give the cities the right to adopt special charters under a sort of general

control. This is not demanded, gentlemen of this committee. It has never been asked for, and I ask those who advocate this to cite one single instance down State where it has ever been asked for by any city, town or village in this State, and if they show me that evidence, I will vote for the proposal as it stands.

Mr. SUTHERLAND (Cook). I hope the amendment will not prevail. I am glad it has been offered at this time. At first I thought I would prefer not to have it offered until the section could be explained, but I think, Mr. Chairman, it goes directly to the heart of the subject matter and to the reason for the adoption of this section by the joint committees of Chicago and Cook county and Municipal Government, after a careful survey of the existing laws of the State of Illinois and the constitutional provisions relating thereto.

It used to be possible, Mr. Chairman, for a legislature to grant special charters and to pass special laws for cities, towns and villages, as well as for other interests. The history of legislation in those days shows the adoption of a provision in the Constitution prohibiting special legislation for cities did not so much arise from lack of uniformity in the special laws passed for one city compared with the others throughout the State, but it arose from the fact that at Springfield there was constant interference with the political powers and functions that properly should have been settled at home. A member of the General Assembly not in sympathy with the reigning political faction at his home town would go to the General Assembly and because of his influence would get through a bill which would seriously affect the home situation, a situation which had been created by the duly constituted authorities of his own city, with which he and his crowd were not in sympathy.

Mr. DIETZ (Rock Island). I will ask you whether it is not a fact that the agitation for this sort of thing, represented by this section, has not come about and been stirred up principally by just such sort of disappointed politicians as you refer to?

Mr. SUTHERLAND (Cook). I will say it has not. On the contrary, it is the desire to protect from just that sort of thing.

Now, in the City of Chicago and some other cities in the State there have arisen requests and demands for different forms of municipal government peculiarly fitted to conditions existing in one city or another. Under the present situation those requests have come before the General Assembly, and those requests have to be taken care of one way or the other. The Commission Form of Government Act was in response to one such demand. That is a general law which may be adopted by referendum. No demand for that ever came from the City of Chicago. That was a down State demand, and carried in response to requests from down State cities.

Now, you have some cities in the State of Illinois working under the commission form of government. The gentleman wants to know from whence the demand for this sort of thing comes. At the last session of the General Assembly, Mr. Chairman, representatives from the gentleman's own district, from the County of Rock Island, brought into this General Assembly a bill to permit cities to adopt the city manager form in connection with the commission form of government. There were many places in the city that did not care for that at the time and did not conceive that they would ever care for it. That situation is typical of others that arise. Now, Mr. Chairman, whenever a city wants to change its form of government it must come to the General Assembly. Whenever groups of citizens think that there should be a change in their form of government, they come to the General Assembly, groups now come to the General Assembly and ask for changes in their form of government, that sometimes are not desired by the corporate authorities, or perhaps if it was put to a test, by the majority of the voters of the city.

This section, be it understood, applies purely to structural matters, as to the form of local government, whether to be conducted by a mayor and city

council, whether your city attorney should be elected or appointed, whether there should be a commission instead of a council, whether your council should have one chamber or two, as to whether the mayor should be elected or you will employ a city manager. All of those things are purely structural, they do not affect the sovereign power of the State. It is not of any particular consequence whether one city has one form of government, so long as it is no monarchy, or anything which contravenes the form of republican government guaranteed by the Constitution. We have many, many special charters in the State of Illinois for local government. We have many forms of government created by the power of the Constitution according to population. And therefore is it possible for cities to come down and urge legislation for cities of that particular class which will only affect that one city. That, of course, is particularly true of Chicago.

Now, the uniform clause exception, as to legislation affecting municipalities, was intended to prevent so-called "ripper" legislation. Some citizens of the highest character and highest motives will sometimes seek through legislation which is really of that character—I am not allied with the present City Hall group in the City of Chicago, my own city, I am not in sympathy with many of the things that they stand for and do, and yet, Mr. Chairman, I am more out of sympathy with an effort that was made in the last General Assembly or suggested to the last General Assembly to reach down here to Springfield and to remove from the control of the newly elected mayor a school-board which the law said he should appoint, and under the provisions of which law he had appointed; the idea was to come down here to Springfield and ask the Senators and Representatives from other districts of the State, wholly apart from Chicago, to take out of his hands the school-board and make the appointments either by the Governor or elective, I forget what the plan was, but it was purely a political plan based on factional differences—although opposed to the mayor, I was still stronger opposed to measures of that sort, which went against the will of the people expressed in local matters. These are local matters purely. These are matters of structural formation of local government, and they should remain under the control of the city. We say specifically in all matters except such local matters the sovereignty of the State shall be supreme but, Mr. Chairman, because of the confusion that results, of the pulling and tearing that results from trying to take care of the interests of the whole State, not of Chicago or Moline or Rock Island or Quincy or Shawneetown, it is desirable that each of those cities should have the power to settle its own form of government as to how its affairs shall be run, and not what they shall do, not what powers they may exercise, but merely how they will conduct the ordinary, every day business of government.

Uniformity as between cities on these matters does not exist, has never existed, and there is no reason for it to exist. The only call for uniformity is as to laws and the power that may be exercised. It makes no difference whether those powers are exercised by the mayor and the council, by a commission and mayor, by a commission and manager, so long as they are exercised uniformly throughout the State. I hope, Mr. Chairman, the amendment offered by the distinguished delegate from Rock Island will not prevail, because it vitiates the entire section. It would be perfectly idle to have a city adopt a charter and have it in the power of the legislature to write that charter out altogether, or on the appeal of some faction which had been beaten at the polls, to make some change which would be pleasing to a minority that had failed in a local election.

These are Home Rule powers that properly belong in a city, and in which the sovereignty of the State by being surrendered loses nothing to the common interest.

CHAIRMAN HULL. What I anticipated has happened. We have gotten into contentious matter, and I think it would be unwise to adopt or reject a proposal of this kind and amendments of this kind with barely a quorum here. I do not think there is a quorum here, and I do not want to press the

point of the absence of a quorum. If there are matters that we can do here without a quorum, that are not seriously contentious, I would be in favor of going on with them, but I am not in favor of having a question settled, even debated in the Committee of the Whole, which goes to the heart of the question of Home Rule. Now, I might be willing to go along with this amendment myself, but being in the particular position in which I am placed with respect to these articles, I am reluctant to have a decision by forty votes, so I respectfully request of you that you do not press, and I will not press, the question of a quorum.

If you insist on pressing it, I may be inclined to raise the other question.

Mr. DIETZ (Rock Island). Without regard to the point which the Chair makes and the attitude of the chairman of this committee, I do not want this record to show that the delegate from Cook is better fitted by reason of his information to better represent the districts that the gentleman from Mercer and I came from than we are. I ask him to show where down State in the State of Illinois anybody from Rock Island or Moline or the Thirty-third District, or any other district, ever made any demand upon this Convention for this sort of thing.

Mr. SUTHERLAND (Cook). Of course I did not say that the demand for this thing came from the gentleman's district. I did state that the demand for a law that was desired, particularly, according to the representatives of the Thirty-third District in certain cities of the Thirty-third District was requested from the last General Assembly, and that was defeated because of the various differences of opinion as to the demand for that in other parts of the State.

This is not a Cook county matter, so far as it applies to the rest of the State; this matter is offered by myself in a separate proposal and originally was designed to apply only to the City of Chicago, and it was by request, and the unanimous request of the down State representatives on the Chicago and Cook County Committee and the Committee on Municipalities that this provision should be extended to the down State cities, in order that they might have it, that it is in here.

If the gentleman wants to know where that demand came from, I will say it came from the delegates in this Convention, including one of the delegates who has the honor to represent in a distinguished fashion the splendid Thirty-third District.

Mr. GALE (Knox). I have listened with considerable interest to the discussion, because I always like to hear the distinguished delegates talk. Referring to the suggestion of the delegate from Rock Island, it does seem to me that his attitude on this particular amendment is nearly incomprehensible. He has told you how we need uniformity on these laws, and these are the things provided here on which he says we need uniformity.

"Provisions of the charter or of amendments of or additions to the charter, or ordinances passed in pursuance thereof, which relate to the organization." Now, understand, we have been told that we must have uniformity on these things "which relate to the organization of the government of any city, village or incorporated town." The very thing on which there is no business to be any uniformity, if you are going to have peaceful municipal government. The keenest philosopher from foreign lands on American life and government said that the great outstanding fact of the United States government was the absolute failure of municipal government therein. Now, what has been the reason for that, I don't know what all of the reasons are, but I do know one of the reasons, and one of the great reasons, is that we have not had Home Rule for cities. We have been obsessed in the United States by this uniformity fetich that has gone so far that a delegate can rise up before this Convention and say that we should have uniformity in Illinois as to tenure and compensation of city officials. You cannot have a decent city government as long as you have uniformity. City government relates to local affairs, and most local affairs are questions not of theoretical

law, but of geography, because a local law ought to be such as the local community demands and needs properly to carry out its municipal life.

We have a chance here in this Convention to do one constructive piece of work if we do not do any more, and that is to give the cities of Illinois a chance to get on at least as high a plane of municipal government as the cities of Ohio have reached since they have had Home Rule provisions. I do not believe that any delegate familiar, a number of years, as I was familiar with the city government in Ohio, can honestly claim that the city governments in Illinois are entitled to stand any comparison whatever with the city governments of the cities of Ohio, and largely because those cities have the right each to determine for itself any such matters as are set forth here in this constitutional proposal. It has the right to determine for itself what its course of action shall be.

While the cities have got to go to the legislature for everything they want, and while the legislature is made to make a uniform law, which may apply in all places, you will never have the sort of municipal government that the people of the State of Illinois are entitled to. I seriously hope this amendment will be defeated.

Mr. KERRICK (McLean). The gentleman from Knox spoke of the dissertation of a certain Englishman and his statement to the effect that the American government was a failure. Do you refer to Mr. Bryce or Mr. Von Holtz?

Mr. GALE (Knox). Mr. Bryce in his book.

Mr. KERRICK (McLean). Didn't it confine the criticism to the great American cities with their congested population?

Mr. GALE (Knox). Although he did not say so, I suspect that his observation was confined to those places.

Mr. KERRICK (McLean). His illustrations were drawn from the congested metropolises and not our little down State communities, which are an entirely different thing.

Mr. QUINN (Peoria). On a number of occasions we have listened to the debates and we have the intimation from the Chairman this morning that if we undertake to press this question we would have the question of a quorum raised. I think the better plan this morning would be to discontinue discussing this question, in the light of what we have heard, and I move you, Mr. Chairman, that the committee do now rise and report progress.

(So ordered.)

(President Woodward, presiding.)

Mr. HULL (Cook). I beg leave to report, Mr. President, that the Committee of the Whole has arisen and reports progress and asks leave to sit again.

THE PRESIDENT. You have heard the report of the Chairman of the Committee of the Whole. As many as are of the opinion that the report should be adopted say "Aye."

(Report adopted.)

THE PRESIDENT. The Convention will now resolve itself into a Committee of the Whole, to consider such matters as might come before it, and I appoint Delegate Rinaker to take the chair.

(Chairman Rinaker, presiding.)

CHAIRMAN RINAKER. The committee will be in order.

Mr. JARMAN (Schuyler). I want to introduce a motion and move its adoption.

Mr. TRAUTMANN (St. Clair). The motion is out of order, it should be presented to the Convention and not to the Committee of the Whole.

CHAIRMAN RINAKER. The point is well taken.

Mr. JARMAN (Schuyler). Mr. Chairman, the rule says, Rule 65:

"Upon a call of the Convention, the names of the delegates shall be called by the Secretary and the absentees noted, after which the names of the absentees shall again be called, the doors shall then be shut, and those

for whom insufficient or no excuses are made, may, by order of those present, be taken into custody as they appear, or may be sent for and taken into custody, wherever found by the Sergeant-at-Arms. When a call of the Convention has been ordered, the Sergeant-at-Arms shall permit no delegate to leave the hall of the Convention."

Now, that in connection with the last paragraph of Rule 50, "The committee shall have the same powers as the Convention to enforce the attendance of members; and the Secretary and Sergeant-at-Arms shall be the Secretary and Sergeant-at-Arms respectively of the Committee of the Whole," makes it entirely proper for this motion to be presented at this time, so the point of order is not well taken, and I insist on the motion.

CHAIRMAN RINAKER. I will say this in defense of the rule and in explanation of the situation, that it was thought desirable that such progress as possible should be made while we are here on this Friday. It may be that at some time this question would properly and wisely be raised, and later in the session the Chair might entertain a different view as to the meaning of the rule, but the Chair is still of the opinion that until later in the day the ruling will stand. If an appeal is desired, it will of course be entertained.

Mr. JARMAN (Schuyler). I submit I cannot beat that argument.

CHAIRMAN RINAKER. I think that explanation covers the action on the entire Bill of Rights, and we should make as much progress as possible, and it is with the understanding whenever we reach a controversial matter in this article, there will be no objection anywhere to the postponement of the consideration of that matter until some time next week when there shall be a larger attendance, but the time necessarily required to pass the portions of the article that have been approved by years of experience, that time can be given by those who are here as rapidly as if there were more present. The Clerk will read the preamble.

(Preamble adopted.)

(Whereupon, the following action was taken on the various sections of the Bill of Rights):

(Section 1 adopted.)

(Section 2 adopted.)

(Section 3 postponed.)

(Section 4 adopted.)

(Section 5 postponed.)

(Section 6 adopted.)

(Section 7 adopted.)

(Section 8 postponed.)

(Section 9 postponed.)

(Section 10 postponed.)

(Section 11 adopted.)

(Section 12 adopted.)

(Section 13 postponed.)

(Section 14 postponed.)

(Section 15 adopted.)

(Section 16 adopted.)

(Section 17 postponed.)

(Section 18 adopted.)

(Section 19 postponed.)

(Section 20 postponed.)

Mr. GREEN (Champaign). I move that we do now arise and report progress and ask leave to sit again.

(So ordered.)

(President Woodward, presiding.)

Mr. RINAKER (Macoupin). The Committee of the Whole having under consideration partial reports of the Bill of Rights Committee would report progress and ask leave to sit again.

(Report adopted.)

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DEBATES OF THE

[June 25,

Mr. LINDLY (Bond). I move that we do now adjourn until three o'clock Monday afternoon.

Motion prevailed and the Convention adjourned until Monday, June 28, 1920, at three o'clock p. m.

MONDAY, JUNE 28, 1920.**3:00 o'Clock P. M.**

Convention convened pursuant to adjournment.

The President in the chair.

Prayer by the Chaplain, Rev. F. D. Butler, St. Paul's Episcopal Church, Springfield.

THE PRESIDENT. There are some matters which the Chair thinks could possibly be disposed of at this time in the Committee of the Whole. The convention will resolve itself into the Committee of the Whole for the purpose of hearing some matters pending on the general orders. The Chair designates Delegate Coolley to act as Chairman of the Committee of the Whole.

(Delegate Coolley, Vermilion, assumes the Chair.)

Mr. HULL (Cook). I suggest that the character of the proposals be briefly indicated, either by reading of the proposals or take them up one by one.

CHAIRMAN COOLLEY. The Secretary will read them one by one.

(Proposal No. 195 read by the Secretary.)

Mr. SUTHERLAND (Cook). I move that the report of the committee be concurred in.

(Report adopted.)

(Proposal 314 read by the Secretary.)

Mr. HAMILL (Cook). I move that the report of the committee be concurred in.

(Report adopted.)

(Proposal 315 read by the Secretary.)

Mr. SUTHERLAND (Cook). I move that the report of the committee be concurred in.

(Report adopted.)

(Proposal 342 read by the Secretary.)

Mr. HAMILL (Cook). I move that the report of the committee be concurred in.

Mr. CARLSTROM (Mercer). I would like to inquire if the rejection of this proposal means that we authorize the acceptance of two or more salaries at the same time. I certainly do not want to go on record as voting any such authorization. I think on behalf of the committee it ought to be stated that it is not the purpose of this Convention to allow a man to hold two jobs at the same time.

Mr. HAMILL (Cook). May I inquire, Mr. Chairman, of some member of the committee whether the committee considered if this proposal, if it became a part of the Constitution, would forbid a member of the General Assembly from holding an appointive or elective position which required his service only during the period of time during which the General Assembly was not sitting.

CHAIRMAN COOLLEY. This is hardly a question of what the committee considered. The report is before you, and the motion is to concur in the report of the committee.

Mr. HAMILL (Cook). I move you, Mr. Chairman, that the further consideration of this proposal be postponed.

Mr. CUTTING (Cook). I raise a point of order that the motion is binding. It is perfectly obvious that concurring in the report of the committee simply says that we do not write anything in the Constitution on the subject. It is not establishing any rule in the Constitution for the legislature to go by. If the Legislature sees fit to enact such a law, it is proper they should do it. I am not in favor of holding two offices, yet this does not affect the legality of that.

CHAIRMAN COOLLEY. The point of order is well taken. The motion before the House is that we concur in the report of the committee. It seems to me a very important matter and I think this proposal ought to be explained further by the committee. The committee refuses to make any explanation as to what prompted it in making this report. It refuses to give any explanation as to what consideration it gave this report.

Mr. CUTTING (Cook). If there is any demand for it, I shall be glad to withdraw the motion which I made, and let the matter go over to another time. I ask leave to withdraw the motion.

Mr. TRAUTMANN (St. Clair). I move that the report of the committee be not concurred in, and that the matter be further considered by the Committee of the Whole.

CHAIRMAN COOLLEY. The original motion has been withdrawn, and the motion before the House is that the committee do not concur in the report. Any discussion?

Mr. JARMAN (Schuyler). I move, as a substitute, that the consideration of this proposal be postponed.

CHAIRMAN COOLLEY. That is the same motion. There is a substitute motion that the consideration be postponed.

Mr. TRAUTMANN (St. Clair). I withdraw my motion. Let the substitute be the original motion.

(Motion prevailed.)

Mr. HAMILL (Cook). I move you, Mr. Chairman, that the report of the committee on Proposal 333 be concurred in.

(Report adopted.)

Mr. SUTHERLAND (Cook). I now move you that the committee now rise and report progress.

(Motion prevailed.)

President Woodward, presiding.)

Mr. COOLLEY (Vermilion). The Committee of the Whole reports progress. Proposals 195, 314, 315 and 333 were rejected, according to the recommendations of the committee on this subject. Proposal 342 was postponed for future consideration. I move that the report of the Committee of the Whole be adopted.

(Report adopted.)

Mr. HAMILL (Cook). I raise the question of no quorum and ask for a call of the House.

THE PRESIDENT. The question having been raised, the Secretary will call the roll.

(Roll call.)

THE PRESIDENT. The roll call discloses 36 present.

Mr. JARMAN (Schuyler). I wish to offer the following resolution: "That it is ordered by the Convention that the delegates absent, for whom insufficient or no excuses are made, be sent for and taken into custody wherever found by the Sergeant-at-Arms."

Mr. GREEN (Champaign). I do not feel that the Convention would want to go on record as voting down that resolution, and I doubt if it would go on record as voting for it at this time. Under the circumstances, I move that this resolution lie on the table and be taken up when necessary.

(Motion prevailed.)

Mr. GREEN (Champaign). I now move that the Convention adjourn until tomorrow morning at nine o'clock.

Motion prevailed and the Convention adjourned to Tuesday, June 29, 1920, at nine o'clock a. m.

TUESDAY, JUNE 29, 1920.**9:00 o'Clock A. M.**

Convention convened pursuant to adjournment.

The President in the Chair.

Prayer by the Chaplain.

THE PRESIDENT. The Journal for Friday, June 25th, 1920 has been placed on the delegates' desks and is now subject to correction. There being no corrections proposed, the Journal of Friday, June 25th, 1920 will stand approved; and it is so ordered.

Mr. MICHAELSON (Cook). I desire to present a petition of the citizens of Chicago, objecting to the action of the Convention, and ask to have it take the appropriate course.

Mr. WOODWARD (Cook). I have a similar petition.

Mr. LATCHFORD (Cook). I have a similar petition, Mr. President.

Mr. TRAEGER (Cook). Mr. President, I also have a similar petition.

Mr. GREEN (Champaign). On Friday last, Proposal Number 300 was presented by the Rules Committee, with a recommendation that it be placed on the general orders. It was attempted at that time to raise for debate the merits of the proposal. It comes to the Convention without any recommendation whatever by the committee, and in an entirely different way from other proposals which have been adopted, with the idea that they be considered as a part of the Constitution or rejected, in that respect. It is greatly desired that the merits of this general proposition be debated by the Convention, as I understand the delegates this morning are prepared to debate that question and in order that an orderly procedure may be had on this proposal, and in view of the fact that the Committee on Rules and Procedure in no sense wants to be understood as recommending for or against the merits of the proposal, I move that the report of the Committee on Rules and Procedure as to Proposal Number 300 be not concurred in. The recommendation was that this proposal be placed in the general orders; of course, if it is not placed on the general orders it will not go to the Committee of the Whole.

THE PRESIDENT. The delegate from Champaign moves that the report of the Rules and Procedure Committee be not concurred in.

Mr. SUTHERLAND (Cook). I desire to make an amendment to that motion by adding that Proposal Number 300 shall not become a part of the Constitution.

THE PRESIDENT. The question is on the amendment offered by the gentleman from Cook county.

Mr. DUNLAP (Champaign). I desire some information on this subject, I would like to know the status of this proposal at the present time. As I understand, it has been referred to the Committee of the Whole, is that correct or not?

THE PRESIDENT. No.

Mr. DUNLAP (Champaign). What is the status?

THE PRESIDENT. Proposal No. 300 was introduced and referred to the Committee on Miscellaneous Subjects. The Committee on Miscellaneous Subjects reported Proposal No. 300 back without recommendation. The Committee on Rules and Procedure recommended in its report made to this Convention that Proposal No. 300 be taken from the table and placed on general orders. The delegate from Champaign, Mr. Green, makes the motion now that the report of the Committee on Rules and Procedure be not concurred in; and Mr. Sutherland, the delegate from Cook, moves as an amend-

ment to that motion that Proposal No. 300 do not become a part of the Constitution.

Mr. LOHMAN (Cook). I hardly think the amendment should carry. This is a proposal introduced by me at the request of the Chicago Medical Society and the Illinois Medical Society. The matter was handed into the committee and the committee makes a report without a recommendation. There are two sides to this question, and each side of the matter should be debated. The Chairman of the Committee on Miscellaneous Subjects, Mr. O'Brien, and several members of that committee are not present, Mr. O'Brien being in attendance at the Democratic National Convention.

As I have said before, I have no objection to the Committee on Rules and Procedure's report, but I do object to this amendment, and I think this amendment should come up in a proper way.

Mr. SUTHERLAND (Cook). I made the motion in order that we may have it disposed of. As the delegate from Champaign points out, it was before the Committee on Miscellaneous Subjects and was thoroughly discussed by that committee.

It comes in without the recommendation of that committee. They did not have even a majority of that committee to recommend it, and the committee does not recommend it. We must give reliance to the committee's recommendation. If it is in without any recommendation at all, they are not interested in it.

It has no backing and no support. Why should this convention waste a lot of time in the Committee of the Whole when we can dispose of it now?

Mr. COOLLEY (Vermilion). I would very much dislike to see that action taken by this Convention. He says this has no backing. I am led to believe that that is a matter of small concern to you. The committee did in my estimation the wisest thing it possibly could do. We have a question here that is centuries old, and that committee realizes fully that this is not a matter of petty politics, that this is a fundamental question that should be heard fairly on this floor, therefore they took the attitude that it must come here and stand or fall on its merits. They believe, gentlemen, you are here to protect no special interests. They realize your duty is to the State first last and all the time. As to whether or not this matter is to be discussed now, I have no choice now or at any other time, but let us give this committee credit for having sent here one question on which there was no prejudice brought to bear. The question is on its merits, it has been before the human family for centuries and will continue to be unless given a hearing.

Mr. GREEN (Champaign). I think a little explanation at this point would not be out of order. It was the very purpose of this motion not to concur in the committee report to give the delegates an opportunity to discuss on the floor the merits of the report without taking the cumbersome machinery of the Committee of the Whole, as you would if there was a favorable report on the proposal by the committee. There might be a question whether the amendment was in order, but if the report of the committee be not concurred in, certainly it would lie on the table permanently, but it could do no harm in order that full opportunity for debate on the merits, that this course be adopted. So it seems wise to have no point of order raised in that respect, and the full merits of it can be considered in the Convention. The delegate from Vermilion is right; it is entitled to consideration before the Convention. The mere fact it has not been recommended by that committee, but reported back as a subject worthy of consideration before the Convention sitting as a committee, is the thing that has prompted me to make this motion that it be brought up now in this way, so it will be considered on its merits.

THE PRESIDENT. The question now is on the amendment offered by the delegate from Cook, Mr. Sutherland. The proposal is now open for debate.

Mr. COOLLEY (Vermilion). I have no idea of questioning the actions or motives of any of the delegates, I was speaking particularly to the amend-

ment as presented by the gentleman from Cook. I wish to state very frankly that when this proposal was first presented I was absolutely opposed to it. When I undertook to analyze my own attitude and analyze my viewpoint, I found it was prompted from habit, the thought of years. Naturally my eyes were set on the medical profession, but when later I came to catechise myself, it dawned on me that the medical profession as a profession has no right here, neither has any cult. Our duty is to the State of Illinois. With that thought in view, I would just like a few moments to discuss this question.

Without a working hypothesis which is universal in its application to the phenomena pertaining to the subject matter involved in a discussion, substantial progress is impossible. Indeed, until such hypothesis is established no subject of human investigation can be thoroughly understood.

Without the atomic theory, chemistry, that marvelously exact science, would today be absolutely without a working hypothesis. With it, the well-equipped worker proceeds with all the confidence of the mathematician. Accurately he makes his computations and foretells his results. With a swiftness suggestive of legerdemain, he will produce a harmless gas, a poisonous vapor, an insoluble body, or a drop of pure water.

In the field of medicine, a satisfactory working hypothesis has never been formulated. Many theories have been advanced to account for the various phenomena which have been observed, all of them plausible and satisfactory to their authors, when applied to a certain class of cases, but utterly failing when confronted by another.

The student of medical history cannot fail to be impressed with the monotonous regularity with which one vagary has followed another. So-called schools of medicine, existing before the Christian era, were founded directly on the personal opinions of individuals. For example, the schools of Hippocrates, Plato and Aristotle.

This condition followed in direct sequence through the subsequent centuries. As late as the eighteenth and nineteenth centuries were the scientific efforts of medical men so enshrouded by fanciful speculations and alleged personal experiences, that it was practically impossible for the unwary layman to differentiate. What wonder as time went on and the amorphous fund of scientific knowledge took more definite shape, that Eclecticism, Thompsonianism, Homeopathy, Osteopathy and Christian Science were born and flourished.

Thus have the students of medicine been hopelessly divided into schools, which while not exactly waging war on each other, have been ever willing to vigorously deny the correctness of valuable observations. I cannot refrain from mentioning the will-o'-the-wisps that have blazed in phosphorescent splendor, amid the bewildering darkness by which this science has ever been surrounded. I have the greatest admiration for the men who have followed them in purity of purpose and unmeasured zeal. One by one you have seen the optimistic advocate of a valueless procedure slowly awakened by the cruel cross-questions of a sane attorney, to the realization that his wonderful theory was but an imaginative dream.

Yet these are the men that have made medical history. It ill becomes us to bemoan the shortcomings of the medical profession. I have nothing but veneration for the men who labored therein.

Think of the courage of the Kentuckian who 110 years ago opened the first abdomen, or of the redoubtable swine gelder, who more than 310 years ago did the first Caesarean section for the relief of his own wife. After the futile efforts of thirteen barbers and midwives had offered no relief, he operated; and to the glory of the veterinary profession and to the encouragement of ours, she recovered.

We shout of the achievements of Modern Medicine, and of surgery there remains nothing but the perfection of what already exists, but in the field of psychology we are as much at sea as were Aristotle, Aesculapius, Plato or Galen. We look with pride on the profession and achievements of our

contemporaries. This is as it should be; but let us contemplate their limitations.

Who has given us a rational definition of insanity? Who has been able to establish the limitation of sanity, or to establish the relationship between the normal brain and the normal mind? What is the mind, normal or otherwise? What is the brain? Is it responsible for, or dependent on life? A short time ago I was gratified to hear an alienist of unusual ability frankly state that "we know as little of insanity and what it really is today as did our predecessors of centuries ago."

Observe the truly scientific worker, strong in his convictions, steadfast in his purposes and unerring in his findings. Armed with those instrumental devices, in the technical manipulation of which he is past master, he proceeds with the confidence born of knowledge. Boldly he demonstrates the existence of this micro-organism or that pathologic lesion, and with mathematical precision declares the disease. He confidently makes his blood count, and months ahead forecasts oncoming catastrophe, or dispels from the hearts of anxious friends unmitigated gloom. By therapeutic measures and sound advice he may transform a rapidly failing organism into a useful member of society. Recognizing the etiologic factor of disease, he renders invaluable service to the community in which he works. Like the chemist he is able to proceed with the certainty of result in exact proportion of his knowledge of the principles involved and his skill in applying them to the work in hand.

Out from the multitude there now and then comes a man who advances the profession a hundred years. Clamoring for recognition and meriting it, come others in hundreds. Each useful in his sphere, however closely circumscribed.

Contemplate this situation. Imagine the predicament of the General Assembly charged with the duty of what is usually described as regulating by license the professional activities of these gentlemen of varying attainments.

Not a legislator in this world has the time, had he the opportunity or the inclination, to intelligently circumscribe by statute this bewildering array of talent and skill.

What then is the solution? It is the establishment of a minimum standard of medical education; a standard to which all must conform as a preparatory training for their future activities. With these later activities we are not concerned. If the General Assembly should require that every man who accepts the responsibilities which attend his profession master its fundamentals, less damage would occur. This can be nothing but a mathematical proposition.

Necessity has been called the mother of invention, and danger the mother of wit. What wonder then that primitive man resorted to the invoking of charms when assailed by disease? Quite naturally the incantations of the voodoo doctor were early accompanied by the administration of roots and herbs without knowledge or thought of their physiologic action.

Notwithstanding the fact that the healer has ever been considered a general emergency man, he has long ago learned that his greatest usefulness was in the prevention of sickness. True it is that "an ounce of prevention is worth a pound of cure." Contemplate the havoc which often results from failure to recognize a single case of scarlet fever or diphtheria. Who has not seen the terrors of such an epidemic?

The economic loss occasioned by sickness and death the direct result of the eleven chief preventable diseases in this State was over \$154,000,000, conservatively estimated.

The ability to recognize contagious diseases among children is not too difficult to be attained by the average person in a reasonable length of time.

Failure to isolate results in the spread of such diseases with their attendant mortality. This is not a debatable question, and should not be denied.

That person who insists upon taking the responsibility for the care of the sick can not with grace refuse to acquire those fundamentals which are so easy to attain and of such value to the State in the conservation of child life.

The State of Ohio presents the peculiar spectacle of having mentioned in the law fourteen different cults.

Illinois diplomatically catalogues under the caption of other practitioners the following: Osteopath. Volopath. Nauropath. Hyarothoropist. Chiropractic. Vitopath. Mechanothoropist. Neuropath. Naturopath. Electro-Thoropeutist. Suggestive Thoropoectist. Christian Science.

In 1907 the New York General Assembly, anticipating an endless number of cults, adopted a single requirement for all who deserved to treat the sick. New Hampshire has done the same.

It is your purpose to write a just fundamental law. Before you, neither vocation, avocation, profession, cult or class has any special right. Your duty is to society, to the State.

The greatest economic loss in the State today is due to the ravages of preventable communicable diseases.

You can with perfect decorum demand that the General Assembly provide the means whereby this situation can be improved.

This can be accomplished by provision for a universal standard of medical education to which all can conform who will. A chain is no stronger than its weakest link, and your medical fraternity is no more efficient in the protection of society than your poorest doctor.

The dam breaks at the weakest point and then begins the deluge.

There can be no doubt that communicable diseases are preventable if early recognized and intelligently isolated. You all know the dire results which follow the exposure of large numbers of children to even one case of contagion.

There can be no possible excuse for any man's refusal to equip himself for the responsibility he assumes when he undertakes to treat disease, regardless of his so-called system.

The mere fact that one refuses to treat certain cases is no excuse, as the bald statement implies their recognition. No man who is unable to recognize communicable diseases is qualified in their management.

With the advent of modern civilization it became the duty of the State to supervise the activities of those who assume the responsibility of the care of the sick and injured.

Naturally those so engaged have insisted upon establishing these standards in accordance with their own ideas and ideals. Nothing could be more illogical. This is the business of those charged with the duty of safeguarding the State.

I neither urge nor encourage discrimination against any system of healing, here—more power to their arm; but in the name of desolated firesides, broken hearts and babes in glory, see to it that the General Assembly may no longer undertake to regulate this, that or the other so-called system of healing, or school of medicine, and require every man who undertakes to treat the sick to be able to recognize the more deadly diseases.

Mr. WHITMAN (Boone). In order that we may know exactly what we are debating, and not wander off into a technical discussion of the realm of the medical profession or any other profession, let me read the meat of the cocoanut in Proposal 300, "No power shall exist to impose hereafter any terms or restrictions or give power to any person or persons to treat any ailment, infirmity or disease of another for pay, reward or compensation upon any different terms, limitations, qualifications or prerequisites from those granted or limited to every other person or persons who may hereafter be licensed to undertake to treat or cure the sick or infirm or to preserve from sickness or infirmity persons within the State."

This establishes a single standard for every person who cures or attempts to cure other persons by any means whatever.

It throws us all in one pot together, and I object as a medical practitioner of twenty-five or thirty years, and as a person who has studied years and years in the profession of medicine, to be classified and put in the same class as those who have not studied at all, and who are practicing not with surgery and not with drugs, but by manipulation and with the power of prayer.

With much that the learned doctor from Vermilion has said I am heartily in accord. A large proportion of his remarks were a eulogy on the medical profession. I will stand with him on that matter, and even go further; within the last two generations the medical profession has advanced by leaps and bounds. The brightest pages of American history, I care not whether they be medical or otherwise, have been written in the last twenty years.

The medical profession has abolished, taken off from the face of the earth, yellow fever, for instance, and enabled this country to build the Panama Canal, which the French were never able to do because of yellow fever and malaria. The medical profession has found the cause of malaria, and its elimination is only a matter of a short time.

The medical profession has found a method of inoculation whereby typhoid fever is practically banished from our armies whenever they use it, which was a worse curse than even the shots and shells fired into their bodies.

But, gentlemen of the Convention, this is not the question before us today, and if it proves anything, it proves the medical profession acting as it has with the legislatures and the courts of the United States defining what the rights of the medical profession are, so well, does not need any other kind of protection. The only argument which I think I shall attempt to answer, because it was the only one which the gentleman, I think, in his discussion offered, was the fact that communicable diseases are sometimes treated by those inexperienced in the practice of medicine and consequently the whole community is exposed to danger.

It is a fact sometimes those who are not medical practitioners have made mistakes along this line. It is a fact, though not so often as other folks believe.

It is a fact that physicians have made mistakes along this line, but it is due to human nature and the frailty of the human mind. I have known of an experienced practitioner who has diagnosed a case of small pox as measles, and I have known of that infection to spread until there were twenty cases of small pox in town. But, gentlemen, we are protected, and that is where the full truth comes in. The general rules for the control of communicable diseases read as follows:

"Reports to Local Health Boards: Every physician who treats and examines, every nurse who attends or assists, every householder upon whose premises there resides, and every person who has knowledge of any person suffering from or suspected of suffering from or afflicted with any of the diseases enumerated in this section must immediately report the same in writing or by telephone to the Board of Health," etc.

It is the duty of the State to take that case then and enforce the regulations and what is the penalty for not reporting as required here?

"Any person or persons who violate these rules subject themselves to a fine of not exceeding two hundred dollars for each offense or imprisonment in the county jail not to exceed six months, or both."

Especially in these days when everybody knows his next door neighbor's trouble as well as his felicities, when everybody knows everybody else's business, it is almost impossible for communicable diseases to go along in the neighborhood without anyone knowing it or suspecting it. If he does, it is his business to report to the Local Board of Health and prosecution follows. We are well protected. Now, gentlemen, along the line of this matter, while it does not really touch on the matters under discussion, I cannot allow one or two assertions made by the gentleman who was just on the floor to go without contradiction.

It was my privilege and my honor to be for eight years the superintendent of one of the largest insane hospitals in the State of Illinois. I cannot allow to go unchallenged the statement made that we know no more about psychopathic matters today than we did centuries ago. I cannot agree with the statement that we know no more about them, or the causes of insanity. I tell you gentlemen from eight years' experience, and also a reading of the statistics in the different institutions throughout the United States, the causes of insanity are by no means so far away as most people think. They are not in the stars, they are right on the ground, and I say without fear of successful contradiction from anybody who has made this a study, that eighty per cent of the cases of insanity are caused by three different things, either alone or in conjunction with each other; heredity causes one-third; syphilis is a close follower, and equally closely following those two is alcohol. Today the history of these insane persons in our institutions, properly classified and studied, shows, I say, that eighty per cent of the cases of insanity come from those three different causes, that I have given. Just as soon as we quit going off into the region of the stars to find out the causes of insanity and put in action the knowledge which we now have in regard to those causes, you will have less of these cases, and you won't have so many psychopathic institutions. I will agree with the gentleman who has spoken in saying that a large majority of the cases will get well without a doctor. I will at the same time take up the cudgels in behalf of the doctor and say that is only a half proof. While they get well, there are a good many other troubles which eventually follow, which they do not recover from, if they do not have the proper doctor's assistance in the first place. Furthermore, those who have had the doctor's assistance do get well, and get well in half the time without so much suffering and pain.

Now, gentlemen, having digressed for a time from the main question of the subject, I will ask your kind attention while I try to discuss the meat of the proposition before use.

I have spent many busy years of my life in the practice of medicine and surgery. I belong to many medical societies and have always been a staunch supporter of organized medicine. Even in these days of medical nihilism I am a firm believer in the efficiency of drugs as one of the means of curing disease. I stand squarely with Mark Twain when he said, "I go to church and sing 'I would not live away,' but when I am sick I send for a doctor right away."

For three reasons I cannot support the pending proposal, and believe that the members of this Convention, after mature consideration of the matter, will agree with me that it should not be incorporated into the Constitution. My reasons are as follows:

First. This is a purely legislative matter and the legislature should be left to act in various ways as the changing of the times may require.

Second. The people are amply protected by the present Medical Practice Act of this State.

Third. This proposal, if incorporated into the Constitution and its mandates carried out by the legislature, would put the practice of medicine in a straight jacket, would cause a lowering of the present medical standards, and would also be absolutely unjust to hundreds of people who are practicing the healing art without the use of drugs. It would also be an insult to hundreds of thousands of intelligent people who employ these practitioners.

Allow me briefly to address you in support of the three objections I have raised to the passage of this proposal. For fifty years the various legislatures, acting in conjunction with the medical profession, have been giving more and more attention to the problem of eliminating quacks and those whose practices are dangerous to the people at large. The result has been that the Medical Practice Act of 1917 is acknowledged by physicians, even in other states, to be one of the best ever put on the statute books. This Act was passed by the legislature at the request of the medical profession, and was to a considerable extent the product of the brain of our present

Director of the Department of Public Health. In brief, what does this Medical Practice Act prescribe? It requires a person who is to practice medicine and surgery to take a two year course in a college of Liberal Arts as a preliminary entrance to a medical college. All medical colleges are scrutinized by the Department of Registration and none are licensed that do not meet their rigid requirements. The requirements for graduation are attendance upon a course of four sessions of at least thirty-two weeks each. After graduation from the medical college course, before one can practice medicine and surgery he must be examined by the Department of Registration and a license issued. After July 1, 1922, in addition to the six year course now prescribed, a student must also take a course of not less than twelve months in some hospital approved by the Board of Registration. This means at least a seven year course for those who wish to practice medicine and surgery in all its branches. Now, let us look at the requirements demanded of those who desire to practice drugless healing. First let me give you the definition of drugless practitioners. The term "Drugless Practitioners" as used in this Act applies to those who practice any method of treating human ailments without the use of drugs or medicines and without operative surgery; as for example, osteopaths, chiropractors and napropaths, and the practitioners of other systems not exempted from licensure.

Now, gentlemen, under the Medical Practice Act as it now stands there is a provision for licensing osteopaths and others to practice their specialty without taking all of the course prescribed for those who use drugs and surgery, and they are expressly prohibited from using drugs or surgery in their practice.

The examination for the purposes just mentioned can only occur after a four year course in an accredited college that teaches the branches in which their examination occurs. The treatment of the sick or suffering by mental or spiritual means without the use of any drug or material remedy requires no license. Just very briefly allow me to direct your attention to the penalties attached to the breaking of these regulations. Any person other than one licensed to practice medicine and surgery in all their branches, calling or advertising himself as a physician or doctor without affixing thereto a prefix or suffix indicating the school or system of practice in which he is licensed to practice, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment in the county jail for not more than six months or by both such fine and imprisonment in the discretion of the court.

Now, gentlemen, Proposal No. 300 would wipe out our present Medical Practice Act and would direct that there should be the same examination for all who treat, or undertake to treat, for pay, any ailment, sickness or infirmity. Is it fair to those who do not desire to make use of medicine or surgery in their practice that they shall spend years studying something that they do not expect to use and, under their license, are not allowed to use? Is it fair that those who only use mental and spiritual means in endeavoring to treat the sick shall be obliged to take a seven years' medical and surgical course in order that they may use those means and those only? Is it fair to the medical profession that every applicant to practice medicine and surgery shall be obliged to take exactly the same examination in all its branches? Remember, gentlemen of the Convention, that medicine is only an art and not a science. Lawyers still refer in fundamentals to Blackstone, but many medical works written even twenty-five years ago are only worth the price per pound of old paper. While the course in anatomy, physiology, chemistry and bacteriology is the same in all first-class medical colleges, when you come to the practice of medicine, the most important part of all, there are many and strong differences, but under this proposal all examinations would be exactly the same. One of the most important results of this proposal, if passed, would be the inevitable lowering of the standards of medical education and the consequent evil results to the community. If the legislature may only prescribe one course for all who treat, or attempt to treat, the sick, does any sane person believe that the present

seven year course would be preserved? Who can say what the prescribed course would be? Supposing the Christian Scientists should gain control of the legislature (which God forbid) and a course in Christian Science was the one in which an examination must be held, and the physician, who wanted a course in abdominal surgery would have as a text book Mary Baker Eddy's "Science and Health with a Key to the Scripture," and as a text book on genito-urinary diseases the Acts of the Apostles; and this would be just as reasonable as to expect Christian Scientists to take a seven year course in medicine or surgery before they would be allowed to attempt, by prayer, to heal the sick for pay; and why those two words, "for pay?" If the things now being done are wrong and to the detriment of the health and safety of the community, they ought not to be allowed, whether paid for or not. In the same way ought the osteopath to be deprived of the privilege of attempting to cure by manipulation after he has taken a four year course in his specialty, until such time as he has completed three years more in medicine or surgery? If this proposal should be written into the Constitution of our State and its provisions carried out, I desire to go on record as prophesying that some of the same medical gentlemen who are pushing this proposal, would be pleading for deliverance from being hung on the gallows they had erected for others as occurred in the case of Haman of Scripture times.

Now, gentlemen of the Convention, I am not here to plead the cause of Christian Science. I am not a believer in many of their tenets. Of course I believe in the influence of the mind over the body, a fact that was discovered long before Mary Baker Eddy was born, but I am a believer in their perfect right to heal, if they can, by prayer alone, and in their right to do so for pay, and in their right to do so without taking a six or seven year course in medicine or surgery, and in the right of persons to employ them if they so desire. I believe in the right of the osteopath to practice just what he is licensed to practice and nothing else, and the laws efficiently safeguard this matter at the present time. If the law is not enforced it is the fault of those who know that it is not enforced and still do not furnish the information to the proper officers. It is a characteristic of the American people when they want something done to ask for more law instead of expending their energies in enforcing the law which they already have.

During the early days of this Convention delegations came before the Bill of Rights Committee demanding that medical liberty be written into the Constitution, claiming it should be put on a par with religious liberty. An analysis of their demand showed that what they deemed personal medical liberty consisted in enslaving the masses to their notions of medical subjects and removing many safeguards to the health and well-being of the community. Their proposals would have turned back for centuries the hands of the clock of scientific time. They denied the efficacy of vaccination for small pox, the efficacy of vaccination against typhoid in our armies, among others, and also denied the many other achievements of science which have been proven by indubitable facts. Very properly their requests were laid upon the table, or thrown under the table. Now comes a medical proposition which, in my judgment, would shackle medical practice, would inevitably result in lowering the standard of medical education, would work grievous wrong to many who desire to use certain methods of drugless healing, under proper restrictions, and would in many other ways violate the spirit of our American institutions.

And we have avoided one extreme in this matter, let us now avoid the other, and leave this subject in the hands of the legislature where it properly belongs.

Mr. TAFF (Fulton). I desire to speak on the merits of this proposal, not upon the standards of any craft or from the viewpoint of the medical profession, but solely from the standpoint of the people of the State of Illinois.

This proposal in my judgment would shackle the doctors to such an extent that the people of the State of Illinois could not in many instances get the relief which they should have in health matters.

The first two sentences of the proposal are general in character, and taking the proposal from the standpoint of constitutional makeup, provide a limitation; but the real limitation begins in the third sentence of the proposal.

"No power shall exist to impose hereafter any terms or restrictions or give power to any person or persons to treat or undertake to treat any ailment, infirmity or disease of another for pay, reward or compensation upon any different terms, limitations, qualifications or prerequisites, from those granted or limited to every other person or persons who may hereafter be licensed to undertake to treat or cure the sick or infirm, or to preserve from sickness or infirmity persons within the State."

That is practically the reading of the section. I wish to call your attention to the fact that it says:

"who may hereafter be licensed to undertake to treat or cure the sick or infirm, or to preserve from sickness or infirmity persons within the State."

In my opinion the legislature would, if this section were adopted, be prohibited from licensing any persons who treated sick or infirm persons who did not meet the standard which was set up by the legislature, and that a single standard.

In other words, supposing the Legislature desired to make a standard for surgeons alone, they could not do so unless that standard applied to every person to whom a license was to be issued to treat persons in this State. Suppose they wished to issue a license for persons who used medicine only, not surgery, they could not make that standard. Now in this State there are a number of persons licensed to treat ills. If this proposal is passed, and becomes a constitutional matter, if this proposal were to be passed and adopted in the Constitution the legislature could not license a "dent" unless he had the same qualifications that are required of a practitioner of medicine.

In the present statute, the legislature has defined who are considered to be practicing medicine and who are considered not practicing medicine. If this proposal is adopted, in my opinion the legislature would be prohibited from defining those who are practicing medicine within the Act and the Act which was passed by the legislature would have necessarily to apply to all persons who treated ills.

Under the present statute pharmacists are permitted under license to do certain things. In my opinion the legislature would be deprived of licensing pharmacists. They would be deprived, in my opinion, of licensing nurses under this proposal. They would be prohibited from licensing those who practice midwifery. So I say that the proposal is broader in its terms than it should be.

It is a limitation upon the legislature which in my opinion would greatly deter the legislature in acting upon many of the health matters in the State of Illinois, and for that reason the proposal should not be adopted.

Mr. WILSON (Cook). I have just received by special delivery a petition on this matter signed by two or three hundred people, that I would like to have read.

(Petition read.)

Mr. HAMILL (Cook). I have just received a petition signed by several hundred citizens of the State, most of them in the Twenty-ninth and Thirty-first Districts, which I would like to have presented to the Convention.

Mr. DAWES (Cook). Mr. President, I have received a similar petition which I would like to have follow the same procedure, containing many names.

Mr. DUPUY (Cook). I have a petition signed by several hundred people the substance of which is that the proposal should be defeated, and I ask that it follow the same procedure.

Mr. HOLLENBECK (Coles). I have several petitions from residents of my district opposing the passage of Proposal 300, which I would like to have follow the same procedure.

Mr. COOLLEY (Vermilion). Just a word or two in closing.

The gentleman from Fulton County presented a question that was prominent before the committee as to the words in this proposal. I have nothing to say, I am simply asking you to keep before your minds the one broad principle which is presented here. It is becoming evident that the same tactics that have always been used before the General Assembly are being used here, petition after petition, and I think it only fair to assume that this Convention will pay little attention to the opinion of people expressed in that manner, because you are here charged with a duty to the people who do not send petitions here, as well as those who do.

It is my opinion that every delegate understands fully and approves that portion of our Constitution which guarantees every man his religious freedom, but do you undertake to tell me that because a man has a religion that he is incapable of mastering those few fundamentals that we here ask him to master? Does it necessarily follow because a man is a Christian Scientist he cannot get some of this fundamental information? Do you believe that these men having generally and absolutely qualified themselves to protect my child or yours from deadly contagious disease should not do so? Who wants to interfere with anyone's school? Who wishes to interfere with anyone's religion? No one. But who is willing to allow a man who admits to you that he knows nothing of the fundamental things to pass them by, pass them by without knowing them, or the remedies for the deadly things from which the child life of the State should be protected?

In regard to the remarks of the gentleman from Boone, I wish to congratulate him upon his ability to go me one better. He does me the honor to say that a large part of my remarks were a eulogy on the medical profession. I wish to make it perfectly clear to you that the only things in the medical profession that I ask to be considered here are those definite scientific matters that have been established by people, many of them not physicians. Young girls in our scientific institutions have developed the microscope perhaps as much or more than anyone else. Those definite things that we do know, I desire considered.

The laity knows the effect of a contagious disease, and the great extent to which scientific knowledge has developed hinders in a way the bedside physician, because of the time he may have spent developing himself in his chosen profession. What great surgeon would undertake to make a diagnosis of a contagious disease in a border-line case?

I believe in allowing the religious sects or cults to go their way, doing all of the good they can, and may the Almighty prosper them.

But let us not have their proponents turning out on the street children and men with deadly diseases.

Pertaining to the remarks on insanity, I would only refer you to this clause in my article: "So-called schools of medicine existing before the Christian era were founded directly on the personal opinions of individuals."

I concur in the remarks of the gentleman from Boone that medicine in its entirety is not an exact science. If so, we would have none of this argument, no contention for schools of therapeutics. But there are facts of medicine definitely known and definitely demonstrated by science that bear directly on this question, and to have this knowledge is not an unreasonable request to make of any man who takes on himself the responsibility of treating the sick, taking in his hands the destiny of the citizens of this State.

Now, in regard to lowering the standard of medical education. That was my first position, that, gentlemen, will be undoubtedly true so far as the requirements of this State are concerned for a medical man, but the medical institutions, those outstanding medical men and surgeons, will con-

tinue to make the standard of medical education and the medical institutions will demand that their students conform thereto. It is your duty to look after the men who haven't the ability to pass or who have not made the studies—he has to his credit at least the fact that he has made the effort to acquire those facts, and he has made the effort to acquire the learning which will enable him to decide by his mental calculation in the special case the remedy to cure it, and if he fails it is because he is unable in that particular case to bring about the desired result. Why should a man refuse to make the effort to recognize these things when he meets them?

It is said by the gentleman from Boone that the medical profession would be here in the legislative halls or somewhere, I do not know where, wanting relief. The medical profession has no rights here. The medical profession has for years undertaken to raise its standards and has done so. There is a question, as I just intimated, whether or not the present standards of medicine, whether or not that multitude of allied sciences that are included in the medical examination does not hinder men from becoming experts in the field I have mentioned. The medical profession has no rights here. Christian Science has no rights here. Christian Science has a right under the Constitution of the State of Illinois, the same as any other religion, but don't tell me if a man is a Christian Scientist, osteopath or hydrotherapeutic or what not, that he is incapable or should be unwilling to make the effort to recognize deadly communicable diseases.

Mr. MIGHELL (Kane). I believe it is time for the Convention's program to proceed, and I therefore move the previous question.

Mr. CRUDEN (Cook). I desire to present this petition and have it follow the course of similar petitions already presented.

THE PRESIDENT. The delegate moves the previous question. Before putting that motion, I think the delegate from Cook would have the right to close the debate if he so desires.

Mr. SUTHERLAND (Cook). Mr. President and delegates of the Convention: I do not think it is necessary to occupy time. I think we are ready to vote. I am not the follower of any medical school, neither do I belong to the Christian Science faith. I have great respect for the two eminent physicians who have spoken on the floor of this body and for many, many physicians whom I have known and whose devotion to the cause of humanity has been heroic. I have the greatest respect for Christian Science. I believe in the freedom of the individual to follow what method of healing of the body he believes in, whether Christian Science, medicine or simple faith, believed in by many of the Episcopalians and other well known sects, that prayers bring healing.

I wish to point out that words are troublesome in any constitutional construction. There are many words in this proposal. It seems to me to be a case where doctors disagree. I think the Convention, in view of that fact, can most wisely decline to make this a limitation on the General Assembly of the State of Illinois and on the health of the people of the State of Illinois.

THE PRESIDENT. The question is on the motion of the delegate from Cook county, Mr. Sutherland.

Mr. WHITMAN (Boone). On this question I ask for the ayes and nays. (Roll call.)

Mr. GREEN (Champaign). In order to expedite the disposition of this matter, I accept the amendment, so as to save roll call.

(Yeas 57, nays 9. Motion adopted.)

THE PRESIDENT. The proposal is rejected. Reports of committees, resolutions?

Mr. REVELL (Cook). A few days ago I gave notice that on this morning I would offer a motion affecting the matter of adjournment and the reconvening of this Convention.

I desire therefore to offer this motion, that when we adjourn the week the Convention take a recess until next November, the 11th. I ask that the discussion on the merits of this question be deferred until tomorrow

morning, in order to give all of the delegates ample opportunity to consider it in the meantime.

(Adopted.)

THE PRESIDENT. General orders of the day. The Convention will now resolve itself into Committee of the Whole, and the Chair designates Delegate Hull to act as Chairman of the Committee of the Whole.

(Whereupon the Committee of the Whole went into consideration of Proposal No. 374.)

CHAIRMAN HULL. The pending question is on the motion of Mr. Dietz to strike out the second paragraph of Section 9, as far as the sixth line, and insert the word "all" in place of "other" where it appears in the last sentence of this paragraph. I would ask that Delegate Garrett take the Chair.

(Chairman Garrett presiding.)

Mr. HULL (Cook). I would ask to be heard for a few moments on the amendment proposed by Mr. Dietz.

The paragraph or the sentence of the paragraph that he wishes to strike out contains the provision that the provisions of the charter or amendments thereof or additions to the charter or ordinances passed in pursuance thereof which relate to the government of the city, to the distribution of its powers among the official agencies of the city, shall prevail over the laws of the State in conflict therewith. He proposes to strike that out.

In the succeeding section, where it says "The charter framed by the Convention and all amendments thereof shall be submitted to and adopted by the voters of such city, town or village in the manner provided by the convention. The election laws of the State and the powers and duties existing thereunder may, by the ordinance calling the Convention, or by the Convention, be made available for the purpose of the charter. The General Assembly may enact further election laws in aid of this section." He proposes to have it read "in all matters."

I think this amendment goes to the vitals of this whole proposal. All that is contained in this paragraph is this, that the charter convention shall have the power to set up the framework of its own government and shall have the power to distribute the functions of government throughout the agencies which it creates in the convention, and provide what shall be the compensation of the officials which it creates for the government of the city, and other matters.

It is proposed that the charter shall be subject to State law, but in the mere matter of first organization the proposal attempts to permit and does permit the charter to set up a framework of government which will not have to be brought here to Springfield.

Some fears were entertained as to what might be done in any such convention. I am not inclined to share in any such fear. The powers that the city could exercise after its organization had been framed up is limited by law. That is contained in the very first section of the proposal. The powers that it could exercise is limited by law, and all that is contained in the paragraph which the gentleman from Rock Island seeks to amend is a provision which enables the convention to frame its own organization. That would not affect the fundamentals, as far as the electorate franchise, the right to vote by ballot, the obligation to vote by ballot, the prohibition in religious belief, and all those fundamentals that are settled by the Constitution anyhow. So it seems to me if this amendment is adopted it would materially injure the whole scheme to an extent that I think would be an irreparable damage to the scheme. Let me tell you why I think it would. Mr. Dietz proposes that the provisions of the charter shall not be in conflict with the State law.

Well, the whole field of the organization of a city government is already covered by law. The number of aldermen, the length of term of the aldermen, the number of aldermen that come from a ward, all of those things are now covered by law. If a charter convention could not frame up anything in the matter of the organization of its government which shall not

conflict with State laws, it could not do anything, because the field as I say is practically all covered by law, and if it had to conform to State law it could not do anything, practically could not adopt a city charter. For those reasons I hope the Committee will not adopt the amendment.

I want to say one thing further, this proposal is of importance in another respect, the Committee on Chicago and Cook county has a report pretty well formed having to do with the consolidation of taxing bodies. Much of this purported report hinges upon the powers of the charter convention to bring about these provisions. If the charter convention could not do anything contrary to State law, it could not do anything about bringing about the consolidation of the taxing bodies. I hope this amendment will not be adopted.

CHAIRMAN GARRETT. Any further discussion? The question is on the amendment of Mr. Dietz.

(Amendment lost.)

(Chairman Hull, presiding.)

CHAIRMAN HULL. Any further amendments to this section?

Mr. SHANAHAN (Cook). I move the adoption of the section.

(Section adopted.)

(Section 10 adopted.)

CHAIRMAN HULL. The question is upon the adoption of Section 11.

Mr. JARMAN (Schuyler). It has been found in the last few years, as I understand it, in the different cities and counties, that there are some things which it is desirable two counties should join in, or that a city and county should join in, in operating or carrying on. For instance some local service concerning which there is no authority or power in either the county or the city.

For instance, it has been found that in the small counties they cannot support a tubercular sanitarium, but it is desirable that two or more counties join in such a public service, or if a small city alone could not do so, on account of financial conditions, it was desirable that a city and county should join in such service. And I suppose this section was prompted principally on account of that condition.

There are other cases in which two cities near each other, for instance like Rock Island and Moline and other cities in the State, where it is desirable in any public service these two cities might join in the operation of an electric light plant, in water plants, and so forth.

Now, it is possible of course in water matters for one city to sell water to another city, but the authority is doubtful whether or not two cities could join in the operation of a water plant, so the same is true with any other public or local service or any local public utility, and that is the reason this section was placed in here.

You notice it says "shall be authorized to unite with each other in such manner as may be provided by law." After an examination of the question there is grave doubt whether or not under the present Constitution the legislature has the power to pass such laws now. Therefore to preserve the situation this section was put in the report.

Mr. DIETZ (Rock Island). I would like to ask the delegate from Schuyler, with relation to the construction of this sentence, whether or not it might be a limitation on the legislature in its capacity to authorize the uniting of counties and cities, incorporated towns and villages and other municipal corporations for any other purpose than the specified purpose defined in this section? If so, it would be an impractical limitation, and I want to inquire particularly with reference to the cities for which the delegate from Schuyler, being far removed, speaks—Rock Island and Moline. It is my information that if those cities seek to unite and want to unite they would want to unite for every other purpose other than the specified purposes defined in this section.

Mr. JARMAN (Schuyler). For what other purpose?

Mr. DIETZ (Rock Island). I want to know whether that would be a limitation on the legislature authorizing them to unite for other purposes.

Mr. JARMAN (Schuyler). For what other purposes?

Mr. DIETZ (Rock Island). Other purposes.

Mr. JARMAN (Schuyler). What other purposes?

Mr. DIETZ (Rock Island). I don't care to enumerate them. I don't see the necessity of enumerating them.

Mr. JARMAN (Schuyler). I asked the question simply to give a more intelligent answer. This refers to the operation of local utilities, public utilities or other local public services. I do not think the limitation would be with reference to any other question or any other subject.

Mr. DIETZ (Rock Island). Could they be united for any other purpose?

Mr. JARMAN (Schuyler). I don't know. I recognize the rule of limitation of provisions of the Constitution, but I do not think that this would be a limitation when it provides that it is to be done in such manner as may be provided by law, but at the same time the question was raised in the committee with reference to this question, and it was concluded that no two cities or counties should join together for any other purpose than as covered by this section, public or local service, public or local utility.

CHAIRMAN HULL. This is not a limitation upon any two counties uniting in so far as they come within this section?

Mr. JARMAN (Schuyler). No.

Mr. DIETZ (Rock Island). I move to amend Section 11, after the word "corporations," by inserting the words "in the County of Cook."

Mr. SUTHERLAND (Cook). My understanding of the situation, as stated by the Chair, is that the down State members of the committees making this report brought this in as having been written from their point of view and desirable for the down State cities. It was nothing the Cook county members desired or wished to have put upon any down State cities, if they did not want it themselves. As it now stands it is up to each individual city, if the amendment is adopted, to say whether the city shall have these powers by referendum. It does not seem to me this is the proper time to offer these amendments, because it is understood by the statement of the Chair if the Convention decides it does not want this proposal for all cities alike it will be rejected and a subsequent report will be brought in by the Chicago and Cook County Committee. Am I correct in the Chair's interpretation of last week?

CHAIRMAN HULL. Practically so. I did not desire this in any way changed. I do not want the opponents to make a limitation on the Legislature authorizing the uniting of municipalities for other purposes, or political subdivisions, than as stated. I hope the amendment will not be carried.

Mr. MIGHELL (Kane). I think it matters little whether this amendment passes or not. The right of municipalities to control in some measure the public service corporations was the original object in this proposal, in the home rule proposal. It has been killed and we have fooled the people long enough, and you might as well vote the whole proposition down and let the down State representatives and municipalities prepare one which will be of some use to them and then let Cook county do the same.

CHAIRMAN HULL. Well, I do not believe the last word has been said. I would not like to accept the amendment myself.

Mr. JARMAN (Schuyler). I beg the indulgence of the Convention while I read as a matter of information some excerpts from the 246th Illinois, page 43, which is cited in the bulletin issued by the Legislative Reference Bureau, containing this annotation: "Two municipalities cannot join in a special assessment proceeding for the purpose of defraying the cost of an improvement which will extend from one municipality into another. Outside the City of Chicago the town of Cicero cannot join in special proceeding providing for the construction of a continuous sewer, by assessment proceedings providing for the construction of a continuous sewer designed for use by both municipalities and extending from one into the other, join. In the opinion of the Court a local improvement must be wholly under the control of one municipality."

Now, you will remember in this case the legislature passed a bill to this effect, but that law of the legislature was unconstitutional, and therefore it could not be done and the two municipalities could not join.

Mr. DUPUY (Cook). The pending amendment is to insert the words "Cook county" after "corporation," if I understand it. It reads, "counties in the County of Cook" then.

Mr. DIETZ (Rock Island). I do not believe that could possibly be the construction.

Mr. DUPUY (Cook). It reads "counties, cities, incorporated towns, villages and other municipal corporations in the County of Cook shall be authorized." Refers to all those classes of towns, incorporated towns, villages and so forth. Thus, gentlemen, if you simply put in "in the County of Cook" you will have meaningless language.

Mr. DIETZ (Rock Island). I will correct the amendment to meet the point made by the delegate from Cook by striking out the word "counties" in the first line of the section, the first word of Section 11.

CHAIRMAN HULL. The amendment offered by the gentleman from Rock Island is amended by striking out the word "counties."

Now, gentlemen, this section came from the Committee on Municipalities, and I believe it is a good section and I would be sorry to see this amendment prevail. I think it contains good matter and it ought to be adopted by the Convention for the entire State.

(Amendment lost.)

CHAIRMAN HULL. The question is on the adoption of Section 11.

(Adopted.)

Mr. MIGHELL (Kane). I offer the following amendment as Section 12 of the proposal and move its adoption:

"This article shall not apply to any city, village or town which has less than 100,000 population"

Mr. LINDLY (Bond). I would like some explanation of this. I want to know whether they are destroying it for the State or what they are doing with it.

Mr. MIGHELL (Kane). I think the proposal speaks for itself. The question of home rule for the big city of Chicago, and the question of home rule for small cities down State are entirely different propositions. As I understand it, the great majority of the cities down State don't care for home rule. I have the honor of representing one of the districts down State which has more large cities, as compared with the down State cities, than any other district in the State. My associate and I represent the cities of Elgin, Aurora and the smaller cities of Yorkville, Plano, Batavia, St. Charles, Geneva and Dundee, besides many smaller villages, and personally I have not found any sentiment for home rule in our district. It is a fact when I went home last Saturday and tried to discover the sentiment of the leading citizens of my town and communicated with those whom I thought most interested I only found one who was in favor of home rule for down State.

The convention saw fit in the first instance to appoint two committees because of the fact that the rights and welfare of the different communities—the community known as Chicago and the communities known as down State communities—were entirely different. It seems to me it is a mistake for these two committees to make a joint report, and in order that this question may be considered and we may have an expression by this Convention as to whether or not it should apply to the down State cities I have suggested the additional section.

Mr. DIETZ (Rock Island). I would like to speak in behalf of the amendment offered by the delegate from Kane.

While the demand made in large cities, cities of 100,000 and over, for special charters and special privileges is known, it would be manifestly, gentlemen of the committee, unwise to adopt this particular article some of the sections of which, particularly this section which relates to charter powers of cities, charter convention powers, to allow the hamlets and the little towns and villages of the State of Illinois to call charter conventions

and submit themselves to the agitation of radicals who seek to change the present form of government in those communities, which would make those little cities and those little towns the feeding ground and prey of city charter specialists who are going up and down the United States wherever they can and are selling their services to these communities at a rate of from \$500 to \$5,000 a throw. Certainly we ought not to permit these communities to be disturbed. We certainly want some uniformity to exist in the larger cities where, perhaps, if it be true, as you say, larger powers are desirable, but certainly no city under 100,000 is demanding this thing.

Mr. WOODWARD (Cook). This amendment in effect is no different from the amendment of the other day offered by the gentleman from Vermilion.

The fact it is limited to 100,000 does not change the effect in principle from that amendment brought in by the gentleman from Vermilion. It has been said here this morning, as was said the other day in making it apply to cities of 1,000,000 and over, that there is no demand from down State for this proposal concerning municipal home rule.

I take the liberty of repeating what I said the other day with reference to the make-up of the two committees in presenting this joint report, namely, that of the thirty members eighteen members of those two committees came from down State and twelve members from Chicago. No minority report has been submitted, and I therefore respectfully suggest that up to this time this report has the support of the members of those two committees and expresses the joint will of the thirty members of those two committees, and I for one cannot see how any member from Chicago can consistently vote in favor of this amendment and at the same time feel that he is doing his duty to the eighteen members from down State who were responsible in part for the presentation of this joint report.

Can we, coming from the City of Chicago, consistently vote for this amendment in fairness and justice to the other members of the committee representing the down State districts? Are we to assume, gentlemen, from the few objections that have been offered here on the floor in the presence of this committee and in the discussion of this matter that the few members who have spoken against this proposed article, and who have sought throughout the discussion of this whole matter to limit it to Cook county only, can it be said that they express the sentiment that prevails down State over the wish and will as expressed in this joint committee report of the eighteen down State members who apparently standing behind the report of the two committees?

And I say again, can any member from the City of Chicago consistently vote for an amendment of this character saying that Chicago shall have these things and in the same voice denying them to the other municipalities throughout this State?

Mr. Chairman, this amendment ought not to prevail. This is another attempt to defeat this article and to not meet the question fairly and squarely. Those who are opposed to home rule in principle have a perfect right to express themselves on the question of principle, but they have no right to attack and attempt to kill this article in the manner that is now being attempted and has been attempted throughout the discussion of this committee report.

I hope no member from Chicago will go back on the members from down State on the two committees who say that the people that they represent are demanding a home rule measure and who signify by standing back of this report they are in favor of just the kind of home rule that is here presented.

Mr. KERRICK (McLean). From the very beginning of the work of this Constitutional Convention one of the matters considered of very great importance was the desire on the part of Chicago for home rule suitable for Chicago. There has been little or no opposition coming from the down State members of this Convention against allowing Chicago practically

everything upon which it seemed to be agreed in the way of municipal home rule.

Somewhat to the surprise of members of this Convention from down State who were not members of either of the committees who jointly reported out Proposal 374—it was flashed upon us as a surprise—instead of proceeding with what was supposed to be desired—that is to say, presenting a scheme of home rule for Cook county—we were presented with a scheme of home rule not only for Cook county, but for all the municipalities, great and small, down State. I take it as quite probable, even among the eighteen members of that joint committee from down State who favored the report as made here, that the information which they have since gained as to how that is looked upon by the people of down State has induced and will induce some of the members of those committees to reconsider what they did in recommending this wholesale report.

Now, the gentleman who has just spoken has spoken warmly and with great emphasis of the need for it and the reasons why the members from Cook county should vote against this amendment. I would like to ask in all reasonableness, gentlemen, after Chicago has been given, and freely given, all that we could find out from them they desired to have given them whether it would not be in better taste in a matter which does not concern them in the least to refrain from voting at all instead of voting as a unit and solidly against what without any doubt is the desire of the great majority of the people down State with regard to this matter.

If there is anything devolving upon the Cook county delegation or the Chicago delegation, and they seem to be one in this matter, as to whether they should vote or not or how they should vote in this case, about a matter which does not concern them at all, and after we down State have given them everything they ask for, it would seem to me the thing for them to consider is not whether they shall vote as a unit to impose upon the people down State something they do not want and which a vote of the people down State would demonstrate they do not want. The thing for them to do is to decide whether they will interfere with it at all. Simply because eighteen members of these committees should say what is desired by their districts it should not be argued that it is asked for by people at large from other districts of the State than that in which they are located.

It seems to me, gentlemen, the thing is outrageous, the idea of combining here with your entire weight and force to put upon the people down State something which they do not want and never asked for. If that is not an abuse of power I don't know what it is.

Mr. WOODWARD (Cook). Under this article as amended can there be any objection to its adoption for the simple reason that you or anybody else representing any particular municipality does not care to avail themselves of the provisions of this article? They do not have to do so. Doesn't that affect the situation; doesn't that same thing apply to any municipality that wants to make use of the home rule—the reverse of that proposition? In other words, you do not have to accept it unless you want to, so if you are going to be controlled by the local feeling, leaving it to those communities that may differ from you to say whether or not you shall adopt it, as they see fit, don't you think that is sufficient—

Mr. KERRICK (McLean). You are arguing the case.

Mr. WOODWARD (Cook). I am simply trying to make the purpose of my question plain.

Mr. KERRICK (McLean). Well, I will be glad to answer your question.

Mr. WOODWARD (Cook). If you do not care to answer it as put I will waive the question.

Mr. KERRICK (McLean). I will be glad to answer it. There are very many reasons why we do not want it passed—the mere fact that it is left to individual municipalities down State to determine whether or not they want it has very little to do with the merits of this question. It is a proposal under which there can be as many different kinds of municipal government down State as there are municipal governments, and my observation has been, and I have no doubt it has been the observation of many

men who have opportunities to observe these things, that just as long as it is reported back to the people of the State of Illinois, especially to the people who compose municipalities, that there is a chance for a new form of government schemes begin to develop on the part of some people who could not get the other form of government into their hands to exploit the matter to the people as a great advancement and something which they have been suffering from not having for many years, and they are ready to take advantage of it to build up something new for the community. I have seen it happen more than once where, even in the case of a new statute which permitted some change in the local government, a new set of politicians took command with the stimulus which came from telling the people of something new and which they could give them and which they had.

We had this sort of hodge-podge local self-government in this State before the convention of 1870 and that body of men very wisely put a quietus on it by providing by general law that there should be a uniformity of municipal government throughout the State of Illinois. In only one instance was there any objection to that uniformity, and that was in the case of Chicago, and every body who studies these things knows Chicago is *sui generis*, it is not amenable to the laws of the smaller communities, and naturally a statute has to be changed and different provisions made for it. Chicago has been here before and thought she had the kind of municipal government she wanted. What happened? The down State people cheerfully gave it to them, but they had not seen far enough ahead; they wanted further changes; they found that the new law needed changes. They came down further and wanted to be their own tailors, to make new garments to fit their case. We told them "You can have them," but we have not needed anything of that kind. You propose to force it down our throats because eighteen gentlemen with the best intentions, no doubt, in that joint committee, under the force of arguments that where there did not happen to be any one to combat them agreed, you come in and undertake to force on the people of the State of Illinois outside of Cook county something they do not want. If you will just refrain from voting here to put on us something we do not want we will know what I said is true. Of course, there will be a quorum, even if the eighteen stay with you, which I do not believe is the case. They are honorable gentlemen and want to do what is best for the whole State, including Cook county and Chicago, but they have not had the question discussed before them. It is like a court deciding something which has not been argued before it. We are now up to the question whether or not the committee of eighteen and Chicago and Cook county can, if they choose to vote, put upon us something we do not want, in face of the courtesy we have shown you when we have given you every thing you asked for.

Mr. LILL (St. Clair). I am a member of the Committee on Municipal Government. However, I was one of the members against home rule for the down State and I did not sign the committee report and I have not changed my mind at all on the subject since hearing the discussions in this Convention. I want to say that when I became a member of the Convention I was under the impression the City of Chicago wanted home rule and I was willing to give them home rule. In fact, I was ready to give them real home rule—something more than this proposal here or what the committee reported. However, since that time I found the sentiment in Chicago for home rule is not so strong; they seem to think that they are able to run the State, but afraid to run their own affairs in the City of Chicago. However, I am for home rule for the larger cities. I do not think there is any demand for home rule in the cities down State. We hear that the association of the representatives of the various cities down State are endorsing this proposition.

I will tell you the truth. What some of the cities down State want is not home rule; they want control of the public utilities; they want control of the rates. That is the thing they want. They don't care about home rule otherwise. I think the whole question here is whether or not we should

give the cities down State the power to regulate rates as to public utilities. Personally I do not think there is any demand for home rule otherwise.

Another reason why I am against the proposition down State is we are taking a very inconsistent stand in this Convention. We are tying up the communities hand and foot and we do not want to leave it to the legislature to devise their form of government. We tie that up in the Convention. On the other hand, we want to leave the cities to do whatever they please. I say that is a very inconsistent stand to take. Another reason why I am against this proposition is this: I understand—my attention has been called to it repeatedly, especially in California—they have been amending their provisions as to home rule and have done so about twenty-six times. If that is the situation, I do not think constitutional home rule is proper. In fact, I think under our present arrangement we are all right.

Mr. MIGHELL (Kane). If we adopt this proposal as offered here do you think we will have to change it twenty-six times?

Mr. LILL (St. Clair). No; the less you put in the less you will have to change; the more there is in the more chance there is for errors and evils. Personally I think the less you put in the less you will have to change the Constitution in the future.

Mr. GILBERT (Jefferson). There is very little in this proposal that I can approve. I agree with the gentleman who just took his seat that down State there is no sort of demand for this kind of an article—State wide home rule proposal. I believe that this proposal with that sort of title is more remarkable for what it does not contain than for what it does contain.

Why should Chicago, at the request of the distinguished delegate, vote solidly, every delegate, to force upon the down State cities this article of State wide home rule to meet the title or the slogan which is misleading? In so far as there is any sentiment that I have heard down State, and I am not passing on the rightness or the unrighteousness of that sentiment, it is not a wish for any sort of provision that is in this proposal, but it is for the single, simple point which is not in this proposal—the right to fix the rates of public utilities in their home communities—and that is not in this proposal. It leaves it in the control of the legislature, and I am not criticising that law, but it is not in this proposal, and was so stated by the delegate from Cook after the adoption of Section 1 the other day.

Mr. SCANLAN (LaSalle). You are against the proposition of leaving cities to regulate their rates?

Mr. GILBERT (Jefferson). No, sir; I would not say that.

Mr. SCANLAN (LaSalle). Didn't you vote to strike out Section 7 last week?

Mr. GILBERT (Jefferson). I am against this whole home rule. If you submit to this Convention a proposal on the right of the city to fix its rates I will vote on that question with you.

Mr. SCANLAN (LaSalle). Didn't you vote to strike out Section 7 when it was up last week?

Mr. GILBERT (Jefferson). Certainly I voted to strike out Section 7, because that section is against the rights, as I understand it, of cities in long-time contracts. Nine out of ten cases of long-time contracts have been shown by history to be unfavorable to the municipalities and, as you and I both know and as we have seen, cities have repudiated these long-time contracts, and the city in which I live has done that twice. A long-time contract is only binding for one year, and the city entered into a ten-year contract and before that expired they repudiated it. That is, they forced the lighting company to make a contract at lower prices by refusing to pay the current bill.

Mr. SCANLAN (LaSalle). Do I understand you to say that you are in favor of the bill ousting the Public Utilities Commission from making rates in the cities?

Mr. GILBERT (Jefferson). I am opposed to this proposition as it stands. I am opposed to calling it a State wide home rule. Gentlemen, we cannot fool ourselves and we will not be able to fool anyone else. I don't know whether the delegates from the country who join in the proposition

thought it gave them a right to regulate and control rates or not, but if they did have such thoughts they are certainly disabused of that at this stage, and why should we put out something such as this now? I want to say to those from the country that if we do put this sort of proposal in, if Chicago with its votes forces it on the down State and calls it home rule, after it is adopted, if it should ever be adopted by the voters, they will then find that there is nothing in it to regulate utilities, they will have only one or two things to think, I believe—they will think the members of the Convention from down State were blind or else they will think they have betrayed their wishes, if there is a demand in the community for that sort of thing.

I am against this proposal. I am against all of it. The provision with reference to limitation of the municipal indebtedness is all right, and there may be another section; but I am opposed to the most of it. There is no demand for any of this home rule and for any of this crazy-quilt organization of cities down State that I know of. I am opposed to it.

Mr. GARRETT (Winnebago). I would like to ask the delegate a question.

Mr. GILBERT (Jefferson). Yes.

Mr. GARRETT (Winnebago). Do you believe in your own mind that there was any undue influence on the part of the Chicago delegates who were members of the Chicago and Cook County Committee exercised against the Municipal Government Committee?

Mr. GILBERT (Jefferson). I don't say that for an instant.

Mr. GARRETT (Winnebago). Didn't you just say it? It looked as though someone was bought?

Mr. GILBERT (Jefferson). You misunderstood my words.

Mr. GARRETT (Winnebago). You did not say that?

Mr. GILBERT (Jefferson). No, I did not say that.

Mr. GARRETT (Winnebago). Well, I wanted to clear that thought up.

Mr. GILBERT (Jefferson). I do not mean that there was any undue influence used anywhere. I think there is some misapprehension and misunderstanding on the part of some of the delegates.

Mr. GARRETT (Winnebago). Well, I merely asked you a question on that.

Mr. GILBERT (Jefferson). Yes.

Mr. GARRETT (Winnebago). You answered it.

Mr. GILBERT (Jefferson). Yes.

Mr. GARRETT (Winnebago). I wanted to disabuse the minds of the delegates here in reference to any influence or any suggestions on the part of the Committee on Chicago and Cook County with reference to the Municipal Government Committee. As has been stated, there were eighteen out of the thirty members from down State on those two committees. This is more a report of the Committee on Municipal Government than it is a Chicago and Cook County Committee report. As I stated the other day, we had worked alone—in other words, the Municipal Government Committee had tentatively adopted a report, of which this is largely a copy, and then we found that the Chicago and Cook County Committee had worked along the same lines, so a sub-committee of each committee was formed to confer together and this is the result. We really thought and really feel at the present time that this is more a report of the Committee on Municipal Government, representing the down State cities, than it is a Cook county report.

Some speakers have said here that the down State people do not want this report, they do not want this home rule report that is brought in here for their cities, and the down State people don't want it. I wish to call your attention to the fact that the home rule proposal introduced in the Municipal Government Committee came from down State nearly entirely. There was large influence and pressure brought to bear upon our committee for some sort of a home rule proposition, and the Municipal Voters' League, which is composed of officers of 200 large cities in the State of Illinois, introduced a proposal, No. 346, which is strictly a home rule proposition,

much stronger than this report. We had an open day here and some of the gentlemen from cities of the State spoke here on the home rule proposition, so I don't believe when the delegates say that the down State people don't want home rule they know the conditions of the people down State.

Personally, as far as I am concerned, as I stated in the beginning, I had no particular personal interest. As far as the city I came from was concerned there was no demand, but I could not as a member of the Committee on Municipal Government close my ears to the demands made on us in the way of proposals and suggestions.

In fact, at some of the meetings there have been representatives of different cities, each and every one demanding home rule, and drastic home rule, some of them; others more in accord with the report of this committee. As far as any influence on the part of Chicago and Cook county was concerned, I say there was absolutely none. In other words, without any fear of contradiction I might say this is more of a report of the Committee on Municipal Government than it is the Chicago and Cook county.

Mr. DIETZ (Rock Island). I would like to ask a question, whether or not the Municipal Home Rule League of Illinois was in favor of the charter convention power section of this article?

Mr. GARRETT (Winnebago). It is my recollection of Proposal 346 that it is quite similar. If you will look at that proposal you will ascertain. That proposal was referred to our committee, and I think it is about the same.

Mr. DIETZ (Rock Island). I just wanted to say in that connection that inasmuch as the cities of Rock Island and Moline have been referred to as demanding this sort of thing I submitted that question to the leading citizens of those cities and the municipal authorities of those cities on Saturday of last week and without a single exception every one was unalterably opposed to the charter convention section of this article.

Mr. CARLSTROM (Mercer). In my campaign in the Thirty-third district last fall there was circulated in the cities of Rock Island and Moline more than 30,000 copies of advertisements, newspapers and pamphlets, announcing the fact that I was for home rule. The people of those cities voted for me on that proposition. I think it is the people who speak and not the person who happens temporarily to be holding public office, and who at least ought to be heard when a deliberative assembly has convened by the wishes of those they represent.

It seems to me that the proposal before this body has been so emasculated that it is immaterial almost whether it passes or not. I say in my judgment the cities down State do want this privilege of developing their own self-government. I don't want to repeat myself unnecessarily, but the experience of those states which have constitutional home rule has been that the progress of home rule has developed in a most surprising degree, and only in those states have we a modern, progressive system of city government which is worthy of the name. I believe all cities should have that right. I do not think the City of Chicago, gentlemen, should be asked to sit still on the ground that they have been given everything they want. My notion is that they have not been given very much.

I noticed the other day you did not give them very much. I don't think it can be said that they have been given very much. I do not contend that now for a minute. It seems to me the proposition might be well stated, and the statement made by the gentleman from Jefferson is true when he says it is the people who pay the fiddler in cities and villages of Illinois. It is also true that he who dances shall pay the fiddler, but the men down State mean to have something to say about the orchestra that is going to play for them if they are going to pay the fiddler. I say that is what the municipalities of Illinois are asking today—they want to say something about the orchestra that is going to play for the down State if they are going to pay the bill. I say as it stands today the rights of the people of the State of Illinois have been violated fundamentally. It seems as though the people feel that way also.

You will pardon me if I digress a moment. It seems to me, whether it is due to the heat of the sun or the situation the articles have arrived at in this Convention, that we have gotten into the position where some of the things said about us in the metropolitan press are beginning to be justified. It seems to me we are as responsible to the people of the State of Illinois as Nero was, fiddling at the burning of Rome. This strikes at the very vitals of that which I stand pledged to represent. I pledged myself and they voted overwhelmingly on the question, for I believe that cities should have some rights of home rule, and I still hold that position. I will always believe that, and I will carry out the trust which was given to me and which I promised when I came. I believe that the people want this thing, and I believe it is one of the rocks on which the proposed Constitution which we are seeking to frame here will go down to defeat, and properly so, if we shall disregard the rights of these people who have been appealing for the last twenty years to the legislature of Illinois for relief.

If the gentleman from Bloomington does not want to have the City of Bloomington have this proposition, it was amended so that they do not have to have it. I urge on you to see that this amendment is not adopted. There are lots of cities and villages in this State that are modern and progressive, and they should not be deprived of the rights and privileges of home rule. I believe that there are a lot of people in Illinois who are looking at us to see what we are going to do with this request. The mayor of Evanston and the city attorneys and mayors of 200 progressive cities of Illinois met across the hall in the Senate chamber in last January, or a year ago last January, rather, and you would have found if you had visited that chamber then, as the chairman of the committee did, that there was considerable enthusiasm in that aggregation, composed of men who are undoubtedly of some weight in this great State. A mass meeting was held then for the second or third time, and you would hesitate in saying that there is no demand on the part of the people for this.

I believe the gentleman from Jefferson made a misstatement when he said that we cannot govern ourselves. God in Heaven, have we reached that stage in the State of Illinois that the people cannot be trusted with the management of their local affairs? If we have, it is time that we face the fact that that calamity which we sent our men across the sea to avoid, the hanging of the shroud over that which protects the centuries against tyranny and darkness, does exist. I have every confidence in the people of my community and the communities with which I have come in contact, and I believe that they have the ability to accomplish their own affairs, and intelligently.

I believe that this should not be emasculated to such an extent that there is only a husk of the name given in the title. I hope that this amendment will not be adopted to restrict the proposal even in the weak form it is now.

I hope the citizens of Chicago will continue to do as they did in the past, continue to vote their convictions on this subject, either divided or together, as the attitude they have. I hope there will be no division of the State on any part of this Constitutional Convention, but we will all act together as a body of men towards a comprehensive understanding and outlook of the attitude of all the people of Illinois.

Mr. FIFER (McLean). I wish to detain this body of delegates only a few minutes. Previous to the Constitution of 1870 each city, town and village would apply to the General Assembly of the State for its charter, and the General Assembly would look into the matter of granting just such a charter as it deemed feasible. That resulted in the cities of the State acting under different charters and doing business under different charters. There was nothing to prevent in these constitutions the General Assembly giving to the Justices of the Peace one jurisdiction in one county and a different jurisdiction in other counties; so in traveling over the State you would come to a city acting under one set of laws and you would go into a

different county and you would find Justices of the Peace exercising different powers and different jurisdictions.

Now, after an experience of fifty years, from the time that the State was admitted into the Union, down to 1870, that Convention met, and in the light of the experience that they had with our cities acting under different charters and these inferior courts acting under different jurisdictions, and the Constitutional Convention of 1870 discussed this question, and they discussed it in the light of the experience of fifty years, and the result was that they provided in the Constitution that those special laws should be wiped out. They did not take away the charters of cities that had been granted before, but they provided for general charters under which new cities, towns and villages might become incorporated. They provided further that the cities which had special charters might give up those special charters and become incorporated under the general law. The City of Bloomington, from the time it was made a city, had a special charter and held on to that charter thirty years after the adoption of the Constitution of 1870. Finally of its own free will it gave up its special charter and incorporated under the general law.

Now it is proposed by this Convention that we reverse the Constitution of 1870, and go back to these special charters.

The General Assembly acting for the whole people would be in a better position to say in order to preserve uniformity throughout the State, what charters should be granted for each individual city in the State.

For one, I am opposed to the proposition and my people are opposed, not only in my district, but throughout Central Illinois, so far as I have been able to ascertain, are opposed to this proposition. I went home from this hall and made inquiry among our people and people visiting Bloomington from different sections of the State, and I explained to them this proposition, and without exception they were opposed to it.

Now, when this question was up before this report was made, that was the first intimation that I had on the subject that there had been a union of these two committees and it was proposed to adopt the proposal now under discussion.

It is insisted here by one gentleman from the City of Chicago, who appeals to the eighteen members from that great city to stand as one man, and vote upon us what I believe our people do not want.

When I came here as a member of this Convention I supposed Chicago would ask for some privilege in regard to their own municipal affairs. I said openly here, and I said to many of the other members individually, "You men get together; I recognize that it is necessary for you to have a charter or a home rule provision, that is not applicable to the down State cities, and you agree upon it, a majority of you, and I will support you." I repeat now what I then said: "Now, you leave this matter to the down State to settle," and if the gentlemen from down State upon this floor can outvote us, well and good, but it is unfair and I believe further you will make a great mistake if you stand here as one man forcing upon the down State that which they do not want.

Now, I have heard it—I do not know how much truth there is in it—that this whole matter grew up over the fact that the Utilities Commission did not rule in regard to certain municipal matters as the local authorities believed that they should have ruled.

Now, gentlemen, if there is any dissatisfaction in regard to what the Utilities Commission has done, you have mistaken your forum. It is not in this Constitutional Convention, but it is with the legislature of the State, and a little bill no longer than your finger will correct this whole evil. I have heard it said by the members who favor this that they went to the General Assembly and failed to get what they wanted, and now they are appealing from the General Assembly to the Constitutional Convention and asking us to unsettle what was supposed to be settled for all time by the Constitutional Convention of 1870.

The hours are long in the lifetime of a great state, and if the gentlemen hailing from certain districts in the State have not been treated by the Public Utilities Commission as they believe they should have been, other legislatures will convene in Illinois, and if your complaint is just and equitable, I have no doubt but that the General Assembly will grant you justice and equity, possibly just what you want, but do not appeal from the General Assembly to this Constitutional Convention and ask us to go back to the time when we had these different charters and special laws throughout the State of Illinois.

Now, I say in all kindness to our friends from Cook county, that this is a down State question, and as we have conceded your question to be one solely for the City of Chicago with one possible limitation, if we see that it is so radical and so out of reason that it will injure you and injure us, we might thrust in a hand, but otherwise not, and I say you ought to keep your hands out of this. This broke upon me like a clap of thunder out of a clear sky. I had not heard of the two committees being joined; I had not heard that they were making such a report until it was thrown upon my desk and I read it at that time.

Now, gentlemen, I hope that this proposition will fail, as it should fail. Mr. SCANLAN (LaSalle). As I understand the pending proposition, the intention of the gentleman from Kane was to limit this entirely to cities of over 100,000 population.

Mr. MIGHELL (Kane). Yes.

Mr. SCANLAN (LaSalle). That means, of course, all of the other provisions of this Act now remaining will be applicable to cities only 100,000 population and over.

Mr. MIGHELL (Kane). Yes.

Mr. SCANLAN (LaSalle). So far as the down State cities are concerned, I do not think there is any great demand for a change in the form of their government or for the right to make a change in their form of government. What the down State cities have been united on, what the people in those cities have been demanding is, that they have restored to them some of the powers taken away a few years ago. When you killed Section 7 and struck it out of the article, you struck a vital blow to the whole thing.

I was rather amused to hear some of the delegates stand up here and say that they were doing a great work on behalf of their poor people in preventing the granting of franchise during what they say is the peak of high prices. I was rather amused by one of the gentlemen who talked on that subject and said that thing, because I remember when the other side of the question was up before us, when the President of the Tri-City Railroad was on the stand before us, this particular gentleman asked him this question—a question that was designed to have but one answer and none other—that was this: “Do you know of any single case where a public utility got anything from the Public Utilities Commission that it was not entitled to?” What other answer could he expect from the president of the railroad company but the answer that he got, that he knew of, no case where any public utility got anything from the Public Utilities Commission that it was not entitled to get. That gentleman gets up here and tells you in the interests of the citizens of the down State cities that he wants Section 7 stricken out of the proposal because, he says, this is the time of high prices, and if you give franchises now, it will be unfavorable to the community on account of these high prices.

I want to say to you that the people of the cities down State are intelligent and they know what they are about; they know the character of their representatives in the city council. It was proposed here that in this proposal there should be written a provision that it should be submitted to the people before it becomes effective, that they can themselves say what they want.

I say you are not looking out for the interests of the people down State; you are looking out for the interests of the utility companies, that is what you are trying to do. It says Section 6 does not apply to cities

under 100,000 population, and the effect of that is to throw into the hands of public utilities every public-owned utility in Illinois. You say to the people down State: "You are not permitted to own your own utilities, or own or operate waterworks or electric light plants." I think this whole question can be met fairly by defeating this proposition that is pending, and if you are afraid, as the member from McLean seems to be afraid, of a radical change in the form of government of the down State cities, let us modify the provision having to do with the form of calling the charter convention and let us change the form as to the cities of certain sizes. Do not put the amendment as to cities of 100,000 in; I say that the people of the down State, and especially from the district I come from, are expecting different treatment than they are receiving from this Convention on this proposal.

Mr. FIFER (McLean). Can't the General Assembly grant you all of the powers you want?

Mr. SCANLAN (LaSalle). I doubt it. If the amendment is written into the Constitution it will kill Section 6 absolutely.

Mr. FIFER (McLean). Can it grant to the cities full control over municipal affairs, even greater than they have now?

Mr. SCANLAN (LaSalle). It may be possible.

Mr. FIFER (McLean). Yes.

Mr. SCANLAN (LaSalle). But we are not talking about Section 7; we are talking about the Constitution now and the amendment you are putting in.

Mr. FIFER (McLean). If they fail to agree, why don't they go to the General Assembly?

Mr. SCANLAN (LaSalle). Well, we are talking about the constitutional provision contained in the amendment of the gentleman from Kane.

Mr. FIFER (McLean). Yes, but if the General Assembly can grant the relief, then it is a legislative matter and does not belong in a Constitution. Isn't that true? Isn't it legislative matter? This is a provision granting you what you want in the Constitution. If the gentleman asks the legislature they can grant it.

Mr. SCANLAN (LaSalle). I proceeded on the theory that this amendment which has been pending makes the entire article applicable to cities of 100,000 and over goes into the new Constitution.

Mr. FIFER (McLean). Well, that does not answer my question.

Mr. SCANLAN (LaSalle). Under the present Constitution I admit that is true. You are attempting to write a new one and incorporate the provisions of the gentleman from Kane. That means, for instance, Section 11 shall not be applicable to two or more cities situated closely together to join together for the benefit of the two communities in the way of local public works. As I said before, that is what you fear—as many different kinds of city government as there are cities in the State of Illinois, which might be accomplished under this article if this article was adopted as it is. If you are afraid of that, let us amend that section so it will apply to the larger cities of Illinois.

Mr. KERRICK (McLean). Isn't Section 11 entirely legislative? Isn't it within the power of the legislature?

Mr. SCANLAN (LaSalle). No, I do not think so.

Mr. DIETZ (Rock Island). I would like to ask the delegate from LaSalle whether the parliamentary situation is such now that the limitation suggested by the delegate from Kane might apply only to charter conventions, Section 9?

I want to say for the purpose of the record that my position is this: I am opposed to Section 9, the charter convention powers, applying to cities other than large cities. I have supported every other section of this article and shall continue to except that one.

Mr. SCANLAN (LaSalle). When the pending motion is disposed of you can move to reconsider and cover it.

Mr. DIETZ (Rock Island). Motion to reconsider? That could not be done.

Mr. SCANLAN (LaSalle). No, you would have to defeat this pending amendment, as it applies to the whole article. I want to say this further: I think I know what the people down State are thinking about and what they are saying about this pending amendment and this Convention. I want to say to you there is not a chance in the world of this Constitution being adopted unless the Convention grants to the cities and the people of the down State cities some of the things they are asking for. Some of the things they are asking for and not to be deprived of some of the powers remaining after the Public Utilities Act was adopted. They want restored some of the powers that were taken away from them then. If this goes in with the Article 7 stricken out and with the amendment of the gentleman from Kane you haven't given anything to the people down State and your Constitution will not receive their support.

Mr. MIGHELL (Kane). Is there any objection if this amendment, which I have suggested is carried, for the Committee on Municipalities to bring in a further report asking for such municipalities the things you suggest to be desirable?

Mr. SCANLAN (LaSalle). It is not necessary for them to do so. It is up to this Convention at this particular time to take care of it now, and you should not take any chances on what the Convention will do at some future time.

I am not suggesting that every city or municipality should be covered in the Constitution. I do not think the down State cities want that. I don't hear much of that now. I do know they want some relief. I do not say it is confined to the city officials alone; it may have been true at one time. But the working of the Public Utilities Commission right at their door—every person who has had his rates enlarged or increased is interested and wants to know the why and wherefore. He wants to know why it is when the city fathers after a long fight secure a franchise which carries with it their rights that questions then begin to arise. For instance, a franchise to a car line company providing that a part of the cost of the pavement be paid by the car company. When the city gets ready to pave the street the company serves notice on them "If you do that we will tear up our street car tracks." I know of a case where the commission refused to allow the company to tear up the tracks. The car company appealed and while the appeal was pending the car company tore up the tracks and left the people without car service within its limits today, despite the fact that the Public Utilities Commission issued an order to maintain the service there.

Those are the kinds of things the people want to know about. I think it is up to this Convention to give them something that they ask and not deny them wholly any relief whatever.

Mr. LINDLY (Bond). I just want to say a word in support of the gentleman from LaSalle. I come from a district while not in the large county, in my district is the large county of Madison, which has within its borders the tri-cities—Alton, Edwardsville and Granite City—and other cities in that county. During the campaign when I visited those counties the question was asked me if I was for home rule in the cities and I asked them what home rule they wanted, and in many cases since I have been up here representatives from that county have been up and said among the things they wanted, one of the things was the right to sell the surplus of any utility they owned. This is in this proposal. Another was to protect any contract which they might make, which was in Section 7. I believe when they voted here to defeat the amendment of the gentleman from Rock Island in regard to the charter that amendment would have avoided what the gentleman from McLean has been talking about, and when they defeated Section 7 they defeated the main thing that was wanted in the city or the district I come from. If those two amendments could be put back I think we could support this proposition.

Mr. MICHAELSON (Cook). I cannot understand the great outcries coming from McLean county. The requests come that we refrain from voting on this proposition; that it was a question for down State alone.

When a question vital to Cook county was being considered here a few days ago no such proposition was made. Then the delegates from down State had the power and the votes and gave us notice plainly "We will handle this matter for you." Now they ask the delegates from Cook county to refrain from voting because this is a matter which concerns them. They say, "We will decide this for ourselves without your interference." Why not make the proposition, if they refrain from voting let the delegates from Cook county be the jury and decide the matter for the delegates from down State, then you will get a square deal.

I think the only thing left to be done with this report is to vote it down entirely. As a home rule measure it is now a joke. It won't help Cook county, and evidently it won't help the down State counties, so there is only one thing left to do, either the down State delegates refrain from voting and leave it to the eighteen delegates from Cook or vote the matter down entirely.

(Amendment adopted.)

CHAIRMAN HULL. The proposal is before you in its entirety unless there are further amendments.

Mr. JARMAN (Schuyler). I move the whole article as now amended be not adopted.

(Adopted.)

Mr. REVELL (Cook). I move the committee do now rise and report progress.

(Adopted.)

(President Woodward presiding.)

Mr. HULL (Cook). I desire to report that the Committee of the Whole has considered Proposal No. 374 and recommends that Proposal 374 be not adopted, and asks leave to sit again.

(Report adopted.)

Mr. HAMILL (Cook). I move the Convention do now take a recess until 4:00 o'clock p. m.

Motion prevailed, and the Convention took a recess until 4:00 o'clock p. m. of the same day.

4:00 o'clock P. M.

The Convention met pursuant to recess.

The President in the chair.

The PRESIDENT. When the Convention recessed it was under the head of general orders of the day. The Convention will now resolve itself into the Committee of the Whole for the purpose of considering matters on the general orders. The Chair designates Senator Hull to act as Chairman of the Committee of the Whole.

(Chairman Hull presiding.)

Mr. DUPEE (Cook). I move that the Committee of the Whole recommend to the Convention that Sections 4 and 8 of Proposal 374 become a part of the Constitution to be incorporated in the appropriate place. Sections 4 and 8 are two of the sections in the home rule measure, which measure was rejected this morning. Section 4 is in the present Constitution and confers power to make special rulings with regard to assessments. Section 8 relates to zoning, not only in Cook county, but all the counties of this State. All of these sections were discussed and debated before the house yesterday and were approved, and it is believed that they are important and should be reserved for the use of the entire State, the former because it is in the Constitution as it now stands, the latter because it expresses the policy that the legislature adopted last year.

Mr. TRAUTMANN (St. Clair). I would like to ask a question. You move that Sections 4 and 8 become a part of the Constitution as amended?

Mr. DUPEE (Cook). Yes, sir; Sections 4 and 8 as they were amended.

Mr. TODD (Peoria). Section 5 of this article as presented was taken from the section assigned to the Committee on Municipal Government. I

think that that should also be placed in the Constitution, and I move the motion of the gentleman from Cook so as to include Section 5.

Mr. GREEN (Champaign). You realize that is not the same section in the old Constitution.

Mr. TODD (Peoria). I am referring to Section 5. There is a section similar to that in the old Constitution.

Mr. GREEN (Champaign). My question is, do you realize that that is not in the same language in the old Constitution?

Mr. TODD (Peoria). No, I do not realize that.

Mr. GREEN (Champaign). It referred to street railroads only in the old Constitution, and as it stands there were a number of things added to it.

CHAIRMAN HULL. There are three suggestions here which it is suggested ought to be incorporated in the new Constitution. The question is raised as to whether or not we should reconsider the vote by which the entire article was rejected for the purpose of reconsidering those three sections. I am not sure that it is necessary. I shall be inclined, unless the point is raised, to allow the Committee of the Whole to take up the sections separately and recommend that they be incorporated in the Constitution. Unless, therefore, a point of order is raised I shall so rule. We will take up Section 4.

Mr. DUPUY (Cook). May I inquire whether or not this section as amended will be in the same language in the Constitution?

CHAIRMAN HULL. It is suggested that for the purpose of making a record we should have unanimous consent to reconsider the vote by which this article was rejected for the purpose of taking up in order Sections 4, 5 and 8. If there is no objection it will be so recorded.

The motion is now that Section 4 as read be recommended to the Convention as a part of the Constitution.

Mr. W. A. JOHNSON (Bureau). I simply rise to suggest, being a member of the Revenue Committee, that the committee has already agreed upon that section in the revenue article. This committee has not as yet reported on the article wholly. However, it is practically in the same language as in the present Constitution.

Mr. DUPEE (Cook). I withdraw the motion as to Section 4. It may be necessary to renew it later on if it should not be incorporated in the revenue report.

CHAIRMAN HULL. Then your present motion is that Section 8 be recommended to the Constitutional Convention as a part of the Constitution?

Mr. DUPEE (Cook). Yes.

(Motion prevailed.)

Mr. TODD (Peoria). I now renew my motion as to Section 5.

Mr. GREEN (Champaign). I have not a bit of objection to that section if it be limited to the things which are now defined as public utilities, but let us remember that a public utility is what the law defines to be a public utility, and there is no telling how far this might reach. I am just wondering whether it ought to be adopted in this form or in the form it was in in the old Constitution.

Mr. TAFF (Fulton). Section 5 requires the occupation of streets by permanent fixtures, and with those words it would make it plain that it is applicable to public utilities occupying the streets of a city by permanent fixtures.

Mr. GREEN (Champaign). I have in mind a law suit against a warehouse who made a scale that was in the public street. There is no question but what a warehouse might be a public utility, and the question is whether that ought to find a place in the Constitution.

CHAIRMAN HULL. There was a disposition when this section was before our committee to put in all public utilities which occupy the streets, whether with permanent fixtures or not, and we thought it a safer course to make it apply to public utilities that occupy streets by permanent fixtures.

Mr. TRAUTMANN (St. Clair). This section should be adopted as it is printed. It uses the words "public utility," and these words are always subject to the construction of the courts. It seems to me if any public utility expects to use the streets of a city, whether it be for street railway tracks or telephone poles or telegraph poles, or whether it be a gas company who desires to tear up the streets for the laying of its mains, that they certainly should secure the consent of the city authorities before they do that. That work should be under the control of the city. I do not think it is out of place in the Constitution to use the words "public utility" and let it apply to all. I do not think that a water or gas company should have any more right to tear up the streets than a street railway simply because street railways were the only ones mentioned in the Constitution of 1870.

Mr. GREEN (Champaign). Suppose a farmer wanted to erect a private telephone line between his house and his farm, and suppose after that were done he arranged to take on a subscriber or two. Would that be a public utility?

Mr. TRAUTMANN (St. Clair). If he uses the city streets, yes, because I do not think that a pole erected by a farmer is any more ornamental to a city than a pole erected by a corporation.

You can go a little further and say a farmer has his own gas and electric plant and that he desires to extend it and take on additional consumers. He should be subject to the same treatment as any other company.

(Motion prevailed.)

Mr. GREEN (Champaign). I move that the committee rise and report progress.

(Motion prevailed.)

(President Woodward presiding.)

Mr. HULL (Cook). The Committee of the Whole reports that it has considered Sections 5 and 8 and recommends that they be adopted and asks leave to sit again.

(Report adopted.)

THE PRESIDENT. The Convention will now resolve itself into a Committee of the Whole for the consideration of general orders. The chair designates Mr. Rinaker (Macoupin) as Chairman of the Committee of the Whole.

CHAIRMAN RINAKER. The secretary will read the proceedings of the committee in considering the Bill of Rights on Friday.

(Proceedings read by secretary.)

CHAIRMAN RINAKER. Under the action of the committee on Friday, Section 3 of Proposal 376 is the first one for consideration. I want to say that Mr. Davis has asked that that be passed for today, and he will be here in the morning.

Mr. MOORE (Macon). I move that the further consideration of Section 3 be postponed until tomorrow.

(Motion prevailed.)

CHAIRMAN RINAKER. Section 5 is now up for consideration.

Mr. CORLETT (Will). I wish to submit the following amendment to Section 5:

The right of trial by jury shall remain inviolate, but may be waived in all but capital cases.

The trial of civil cases by a jury of less than twelve may be authorized by law.

Women shall be eligible to jury service but shall not be required to serve.

Mr. JARMAN (Schuyler). I ask that this section be divided. There are three propositions in this section, the first, second and third sentences.

Mr. DUNLAP (Champaign). If it is the intention to take this matter up seriatim in this way I do not know that my motion will be in order, but I am inclined to make a motion to strike out the last clause in that section. I understand under this Constitution that women will be citizens of this State, and as such will be entitled to serve on juries. If they have

a valid excuse they will be excused, the same as any other citizen. I understand that the women's organizations desire to have nothing in this Constitution that will place them in a category any different from the men. They proposed to be placed on the same equality with men, so I can see nothing in this phrase that ought to be left in the Constitution. There is no question but what a court will excuse a woman from serving on a jury if there is reason for it. If it is in order at this time, I will make that motion.

CHAIRMAN RINAKER. The first section is the one now under consideration.

Mr. JACK (Jasper). I move the adoption of that amendment.

Mr. CARLSTROM (Mercer). I would like to ask the gentleman why he left out the words "as heretofore enjoyed".

Mr. DUNLAP (Champaign). The words "as heretofore enjoyed" referred to a jury as heretofore constituted, namely, a jury of twelve men. Inasmuch as the section farther on provides for a jury of less than twelve, I simply struck those words out, feeling they were unnecessary if we are to authorize the General Assembly to constitute a jury of less than twelve men.

Mr. JARMAN (Schuyler). What does the gentleman propose to do with that part of Section 5 in the present Constitution providing for a trial before a justice of the peace by a jury of less than twelve?

Mr. DUNLAP (Champaign). If the General Assembly is authorized to provide for a jury of less than twelve, that would include justices of the peace.

Mr. HAMILL (Cook). Am I right in the belief that by striking out the words "as heretofore enjoyed" you refer to juries as they were heretofore authorized by the Constitution, and that also it is contemplated by striking out that provision to permit a verdict by less than a unanimous vote, and there is to be retained the provision that a verdict may be returned by less than unanimous vote, and therefore you will not want to retain the words "as heretofore enjoyed"?

Mr. DUNLAP (Champaign). You are apparently right. This section provided for serving of juries on all cases except capital cases. My amendment leaves that in. I do not think it makes any difference whether the words "heretofore enjoyed" remain or not. I do not believe it adds anything to it or takes anything away. It would be a matter of indifference to me whether this phrase was added to the section or not.

Mr. GEE (Lawrence). I think those words ought to be kept in. I am inclined to think that a view might be taken consistently that that will have to do with juries in criminal cases. I do not see any reason for omitting the words "heretofore enjoyed." Of all things, to avoid uncertainties are most important. I think we ought to leave it in just as it is. We know what it means now.

I am in favor of the section as reported by the committee, with the possible exception of the last clause, which I think will be meaningless, in view of the determination of this body heretofore. I am very much in favor of allowing the General Assembly to provide for verdicts on less than a unanimous vote. If that question is up for discussion I should like to be heard upon it, but it seems to be that the language as reported by the committee is as it should be, with the single exception perhaps of the last sentence. I hope that the amendment will not prevail and we shall authorize the General Assembly to provide for the sort of verdict that is provided for here.

Mr. SCANLAN (LaSalle). I think "heretofore enjoyed" refers to more than the fact that less than or more than twelve men shall constitute a jury. I think the language of the committee in that respect is absolutely indefinite. There ought to be no room for much quibbling over it.

(Motion lost.)

CHAIRMAN RINAKER. The next question is on the second clause.

Mr. DUPEE (Cook). I move that it be adopted.

Mr. KERRICK (McLean). I have been engaged in as many trials by jury as most men who practice law, having been in the practice of law for

over forty years. It has been very frequently remarked that disagreements of jurors in trial cases are very numerous, so numerous in fact as to constitute a serious impediment to the proper conduct of legal procedure. I have tried in my mind to recall the number of cases in which I was interested which resulted in mistrials because of disagreements, and I have never yet been able to count those cases on the fingers of one hand. I have asked many lawyers that question, and they were unable to recall more than one or two cases and frequently they had not any cases of that sort at all. So that, as a matter of fact, from my experience, it is most unusual for jurors to disagree, and in those cases in which a disagreement was the result, I found that it was a case of a character that was very difficult to determine, either by one man or twelve. We have lived under this system of jury trials during all of our national life, and I believe that in the main there is little or no ground for the criticisms which we hear with reference to trials by jury.

It is my belief that where twelve men agree on a verdict that that verdict was arrived at in some measure through the partial yielding of some member of the jury: I am opposed to the legislature being permitted to change that system. I am not in favor of letting any power on earth change the jury system. I have never seen any good reason why there should be any change. I will say, further than this, that I have been guilty myself, as every lawyer has been, of denouncing some particular jury for a while after it had beaten me, but now, after forty years of experience, and looking back on all of the jury cases in which I participated, I was forced to the conclusion that in nearly every instance the jury was more nearly right than I was.

I think the jury system is one of the great bulwarks of this nation to-day and that it grew out of the wisdom of the men who established it. I do not believe, gentlemen, that you are making any improvement by changing the jury system.

On this question of what is meant by the words "as heretofore enjoyed" there are a number of decisions by the Supreme Court of the State defining those words and their meaning. It is simply the jury system as it existed at the time of the adoption of the present Constitution.

Mr. GEE (Lawrence). I think this is a very unwise move we are taking. We can find out very easily that the consensus of minds of the legal profession will indicate that they are in favor of a jury of twelve men. Having adopted that, I think it will be very unwise to leave to the legislature to nominate a number of men that make up a jury. This provision does not say anything about numbers, but provides for a jury of less than twelve. It might be five or six or nine. I am in favor of twelve men all the time in our practice. You swear in a jurymen to try your case according to the law, and there is no better security for the man who is interested than to know that you have a jury who must arrive at a unanimous verdict. We all know from experience that a jury debates its verdict. They have conflicting opinions, and I do not doubt but that they have debates equal to those of the lawyers before them. What do you want to cut them down to a less number for? How are you going to do better? This provision to have a jury of less than twelve is too uncertain. I want twelve men in my jury box. I believe when they go in to debate the question that the question of a mistrial is of minor consequence. You get a hung jury once in a while, but it is a good deal better to have a hung jury than to go on with the uncertainty that nine men shall be the jury and five of them shall make the verdict. We are entitled to the individual opinion of each man of the twelve of the jury, and you will never have it unless you leave it as it is.

Mr. CUTTING (Cook). I take it that it is not the search for new things that actuates some people at times to seek for improvement, and I am sure that in my experience at the bar and on the bench I have seen many cases where one man has been able to overcome the judgment of eleven opposed against him, or two men the judgment of ten men, and in that case a defendant has only to corrupt one man on a jury to prevent a verdict.

That is not so infrequent as some of you gentlemen seem to think it is. At least it is not in some parts of the State, even if that be not true of the localities in which you gentlemen who are of that belief reside. It is a foregone conclusion that there must be a mistrial or a lack of verdict entirely if, as some one has facetiously put it, there is one intelligent juror and eleven stubborn jurymen in the box. Our ordinary things of life are usually decided by a majority, but I would never advocate a bare majority for deciding a case in the jury box. There must be such a preponderance of evidence for the plaintiff so that a large majority of the jury will be convinced. But there are persons so constituted that they are ready to agree with anybody, and it is those persons who interfere with and destroy the effect of many a trial of long standing. Trials that have lasted for weeks have been thrown into the discard simply because one or two men have become stubborn on a proposition whereas the other ten or eleven are thoroughly convinced. On the other hand, as has been suggested by the gentleman from Champaign, the effects of many verdicts are grave, and if it be true as the gentleman has suggested, that you are entitled to the determination of each individual on the jury, you do not get it in your compromise verdict, even if you do get an agreement. They do not agree except in order to escape the incarceration in which they have been thrown by reason of being on the jury, and in which they remain until they have agreed.

Fifteen states of this Union have departed from this procedure. Some of them provide that nine jurymen out of the twelve must agree. I am not talking about the number of jurymen; I do not care what the number is. To my mind there is nothing sacred about the figure twelve; there is nothing more sacred about that than there was about Sixteen to One. It is a mere statement of a number which happened to be agreed upon years and years ago and I have no objection to its remaining. The idea that every man must agree on a proposition about which some men disagree radically is wrong, and I cannot see anything harmful if you are going to have your case determined by a large majority of the jury, say nine or ten out of the twelve. What is there harmful in that? All the states that have adopted it have not gone back on that principle. I think it is a fair arrangement and one that will work out feasibly. Courts are not unanimous in their decisions. They vary, and yet they make the law with a five to four decision.

I was about to speak of an experience of my own last fall when we tried a case with a jury. On the first ballot they voted ten to two, on the second ballot eleven to one, and they hung for thirty-six hours. It was not a question of money, it was a question of fact; that is, it was a will case in which the jury finally found that the will was not the will of the testator. If that man had stood out a few minutes longer the chances are that the jurors would have reported that they could not agree, and eight weeks of trial would have to have been gone all over again, with all its expense and all its delay.

There was a time, gentlemen, when I was not disqualified to sit on a jury. Most of us here at the present time are, either by age or occupation. Perhaps more of us ought to be disqualified for other reasons, but those are the only ones I know of at the present time. I was a young man, sitting on my first jury, and we were sent out to determine the issues in a certain case. We took a poll and we stood eleven to one. I was elected foreman, and it fell to my duty to talk to the man who was the one intelligent juror who stood out against the eleven stubborn ones, and I did. I said, "What's the matter; don't you believe so and so?" "Yes," he did. "Don't you believe so and so?" "Yes, indeed, I do." "Well," I said, "we are all agreed, then, so what is the trouble?" "Well," he said, "I am for the defendant." I said, "Look here; there was an instruction. The court has told you that if you believe as you do then you are to find for the plaintiff." "The court didn't do anything of the sort." I said, "Here it is." "Whose instruction is that?" he asked. I said, "It is the court's instruction." He said, "Did they

fool you that way?" He says, "I saw the lawyer write that myself." I had great trouble in convincing that juror that it was the court's instruction. I finally succeeded.

Unlike the gentleman from McLean, I can think of at least half a dozen cases where there were hung juries and in some where it was reported that they stood eleven to one, and long trials and much delay were the results of those situations. There was no compromise possible, and even if there was, I am in favor of letting an overwhelming majority of a jury of twelve determine the issues in a case. None of the fifteen states which have adopted that system have reverted to the old system. They have all given it a long and satisfactory trial, and there is no reason why it cannot work successfully in this State.

Mr. FIFER (McLean). My friend who has just spoken would, I take it from what he says, change a splendid system that has endured for hundreds of years among the English-speaking people simply because he had a little personal experience that was not so pleasant.

Mr. CUTTING (Cook). That is not the reason, Governor.

Mr. FIFER (McLean). If he is going to stand on that principle, then I can cite him more important instances that would do away with all the courts in this country and in England. Lord Bacon was impeached and put off the bench for taking bribes. Other judges have been impeached for incompetency and malfeasance in office, even in this land of ours. Now, my friend is seeking for perfection from imperfect human beings. A brave old English judge said in the bitterness of despair, "How imperfect is the most perfect system of human justice."

Don't look for perfection. You will never find it any more than the English judge to whom I have referred. The best that we can do, based on an experience of hundreds of years, is to establish the best system of justice that our intelligence and our experience will permit. The jury system grew up in England, as I understand it, through efforts on the part of the common people. The courts were the tools of power and corruption, and finally in the progress of human justice the jury system grew up, and in the time of Lord Erskine in order to protect the common man from the tyranny and outrages of the government he established the great doctrine that jurors have the right to pass on the questions which would involve not only the facts, but the law as well. This system has for centuries been the bulwark of freedom among the English-speaking people, and I would regret, and regret exceedingly, to see it changed, and I care not what other states have done. Other states have the initiative and referendum. They have that out here in the two Dakotas and in Washington. I have seen their tickets and I am opposed to their system, and I suppose that they are among the states to whom my friend alluded.

In my experience of fifty years as a lawyer, and mostly as a jury lawyer, it is my observation that juries seldom disagree. It is the great exception when they disagree, and there are not as many disagreements as there seem to figure in the imagination of some of the speakers here. It often happens that the two or three men who hang the jury, as we say, are the only men that had any sense. That has been the experience of everybody, and let me now refer, gentlemen, to the decisions of the Supreme Court of this State. In the supreme courts you will find case after case reversed simply because the jury acted upon bias and prejudice. After incurring all the expense of getting out a record and coming down here to Springfield, the seat of government, and arguing the case, it is sent back for another trial because the jury found from bias, and case after case must be within the recollection of every lawyer who is a delegate to this Convention wherein the appellate courts have set aside without number cases for such reasons. Now you are going to facilitate matters. In the great City of Chicago things go pretty fast. No man walks in that city. When he goes from one part of the city to another he goes on the run. But they go a little bit too fast, I believe.

In my judgment, if the jury system is changed and you reduce the number to one-half or make it a jury of seven or nine you will not facili-

tate the trial of cases. You will not save costs. You will increase them, because a verdict returned by a divided jury will not carry the weight with the Appellate Court or the Supreme Court that a unanimous verdict does, and every lawyer of sense knows that to be true. But when twelve men pass upon a question of fact, after having given it serious and deliberate thought, no court will ever hastily disturb the verdict of such a jury.

My word is, gentlemen, do not disturb the jury system in Illinois, which has prevailed among the English-speaking people for nearly a thousand years.

Mr. W. A. JOHNSON (Bureau). I wish to ask the chairman of the committee to state what the purpose or the object was in using this language "by a jury of less than twelve." The reason I ask that question is, under the Constitution under which we are now living there is a provision for juries before justices of the peace. Was it in the mind of the committee that this provision would take the place of the present provision in the Constitution, or was it broader than that?

CHAIRMAN RINAKER. It intended to apply to all courts. The idea was that the legislature should be authorized to do so if they saw fit.

Mr. W. A. JOHNSON (Bureau). Before justices of the peace as well as before courts of record?

CHAIRMAN RINAKER. Yes, sir.

Mr. W. A. JOHNSON (Bureau). In all civil cases?

CHAIRMAN RINAKER. Yes, sir.

Mr. W. A. JOHNSON (Bureau). It is exceedingly difficult, Mr. Chairman, to speak on this subject without telling of one's experience in the practice of the law—in other words, personal experience—and almost all that I have to say is based largely upon my personal experience, and to a great extent upon what my observation has been.

I have practiced law not only in the criminal courts as prosecutor, but I have had considerable practice in the trial of civil cases. I have no complaint to make as to the jury system so far as my own personal experience with that system is concerned. I am not a standpatter on this provision of our present Constitution. I ask any delegate in this Convention to give a reason why a unanimous verdict of twelve men should be thought of as sacred. I believe that provision of our present Constitution flies in the very teeth of every movement of all legislative bodies and in the teeth of the very purpose of the Constitutional Convention which we are here attending. I understand that ours is a government of majorities and that the legislature, by a majority vote in most cases, will grant rights, will take away rights, as sacred as any personal right which is involved in civil litigation, and there seems to me no complaint about that form of government. The work of this Convention will be submitted to the voters of the State of Illinois, and it is upon the vote of a majority of those voters that will be decided the question as to whether or not this Constitution now being written shall be adopted. Yet there is no complaint from the people as to that, and no complaint as to the majority prevailing. As has been well remarked by the honorable Judge Cutting from Cook county, there is no real reason why twelve men should agree upon returning a unanimous verdict in a civil case which has to do with dollars and cents. We all know as lawyers that there is a miscarriage of justice in every single case where a verdict is compromised, and it is not without the knowledge of any lawyer of considerable practice to know in certain cases that juries have compromised their verdicts.

It is said that this is a bulwark for the liberties of the people. From my observation I think it ought to be changed because as it stands it is a city of refuge for men of wealth, the man of high standing in a community. It is a city of refuge for him as sure as you live. Here is one personal experience in a civil case where the amount involved was \$50,000. Everybody thought the verdict had to be a unanimous verdict for the plaintiff. The jury stayed out a long time and they returned with a verdict of disagreement, and one elderly man upon that jury held that jury out for twenty-four hours, thirty-six hours, and more, and yet he would not yield to eleven

members of that jury, and when he was interrogated as to why he did not agree, he said he ran across eleven of the damnedest, stubborn men that he ever saw in all his life. A miscarriage, I say, because it resulted in a new trial, and the verdict was unanimous without hardly a minute's delay.

That is, perhaps, you may say, an isolated case. There are many cases where it is simply a question of flipping pennies, and that is a miscarriage of justice. If there is anything sacred about the unanimous verdict of twelve men upon a decision of that character I have failed to discover it in my observation of civil cases. I think the wisdom and experience of some of our sister states should not be thrown into the waste basket, and there are some sixteen states in the Union that have adopted legislation which provides for a verdict other than unanimous. This is to my mind a progressive movement. I think it is a movement that the people will enter into with the proper spirit.

I saw it stated in a resolution adopted by the States Attorneys Association wherein they endorsed the idea that a jury's verdict not unanimous ought to be written into the Constitution of Illinois. I do not know how many members of the bar were present at that time, but those who were present exercised judgment, I think, in regard to the progressive age in which we are living.

I am in favor of the proposal as it comes to this floor from the committee. I think it is a proper provision. Perhaps it might be more proper that a limitation be put on the General Assembly, something to the effect that a verdict be authorized by the General Assembly, wherein this number be not less than nine, fixing the number. I think some such provision ought to go into the Constitution, and that would be a safeguard sufficient for all the liberties of the people of the State.

Mr. CORLETT (Will). I had intended, at the beginning of the discussion, to say just a word in support of the amendment which I have offered, but the question was divided, and the question that I sought to raise and which has been moved to amend, is not now up for discussion. The question as to whether we shall authorize the General Assembly to authorize a verdict of less than a unanimous jury is now before the Convention for discussion and therefore I shall say at this time what I had intended to say at the beginning.

Section 5 of the Bill of Rights in the Constitution of 1870 was changed by the report of the committee as to permit a waiver of jury trials in all but capital cases, and was changed to authorize the General Assembly to provide for a jury of less than twelve and for a verdict by less than a unanimous jury. In addition to that, the report of the committee provided that women should be eligible to jury service.

On the question of a jury of less than twelve, I am almost indifferent. It was not that which moved me to prepare a minority report. On the question of a verdict by less than a unanimous jury I feel strongly. I have some reasons which are satisfactory to me for the conclusions that I have reached. It is a matter of common information to lawyers that jury service is not sought after by men of affairs or busy men. The average business man never served a day on a jury that he could avoid. He never seemed to take very much interest in whether you have a jury or not except when he had a case to be tried, and then he generally thinks that the best men in the community ought to serve on the jury as a patriotic act. The farmers have rendered more jury service than any other class of people. But in the last few years there has been a scarcity of farm labor and that has placed the farmer where he has been obliged to ask for exemption from jury service, and that has generally been granted. You will get on your juries, under those conditions, men who are seeking jury service, and I think it will be admitted that they do not make the best or even satisfactory jurors. If on a jury of twelve, or even less than a jury of twelve, you will find a majority of men who have sought the service and who do not take the service seriously, but you have in addition to those men two or three men who do take it seriously and want to determine the issues on the exact basis of justice,

then you have a situation which the indifferent and careless who seek jury service cannot run away with. If you have a law that provides that you do not require a unanimous verdict from a jury, and you have three men upon it and those men can be thrown to one side and not be considered, the rest of your jury can run away with your verdict. The theory of a jury of twelve is that you have twelve men drawn from different walks in life. It is true, as has been stated here, that a verdict is very often, and I will go much further and say generally, a matter of compromise. The reason for that is that you have upon a jury, or you ought to have, men drawn from the different walks of life, looking upon the amount of damages to be awarded from different standpoints, and the result is that you get, instead of the opinion of any one particular man, the average opinion of men who have different points of view. I think, gentlemen, that less than a unanimous verdict is a dangerous step to take.

Just remember this proposition, that there is no system perfect, but there is no system that has worked more satisfactory than the jury system, and when you authorize a verdict by less than all who are sitting in the jury box, you are giving an opportunity to cast aside the opinions of whatever men do not agree to that verdict.

I feel very strongly that we should insist upon unanimous verdicts, and it was that and that alone, that caused me to propose this amendment to the report of the committee. I have absolutely no other purpose in mind.

Mr. ELTING (McDonough). I, for one, do not think it will help matters to allow a majority verdict, because, as has been stated in this debate, the minority is very often in the right. I want to call your attention to a criminal case. The case of Cohen against the People, a trial had in Cook county. In this case the defendant was acquitted the first time, one man hung the jury, eleven for conviction and one for acquittal. The second trial resulted in a conviction and Judge Dunne, who was presiding at the trial, did not like the verdict, so he set the verdict aside and gave the defendant a new trial. The third trial resulted in a conviction of the defendant and Judge Dunne said, there being thirty-five men against him, he thought he would let the verdict stand. The case was appealed to the Supreme Court and the Supreme Court reversed the case and said thereby that the one man was right.

I have never had many mistrials, but I think it is better to have a mistrial and to have it sent back for a new trial because there is something wrong, gentlemen, if the men do not agree upon a verdict. I served on a jury two terms of court in my life and I have congratulated myself on having that experience. A peculiar thing about a jury of twelve men is that when they begin to ballot on the amount of damages you will find one fellow who wishes to make the verdict extremely low and you will find the other extreme—the fellow who wants to give the amount that is being sued for, and the verdict is usually arrived at at some amount in between which is satisfactory. That is what is called a compromise verdict, but all our actions in governmental affairs are largely a matter of compromise. We sometimes compromise to get our reports out of the committees. So I do not think that the mere fact that it will lessen delay, which has not been proven, is sufficient ground for reducing the number of men to serve on the jury.

Mr. GREEN (Champaign). I really cannot keep up with the progress that some of my brothers in the profession have made. I have not had a tremendous experience trying jury cases, but I have been at it regularly during my practice, and I do not see any reason for departing from the precedent of centuries on the new theory with reference to the administration of the law. These arguments about majority rule have no application to the question of jury trials. The adoption of a policy of government, the adoption of a statute, the passage of a legislative act, they are all a matter of policy and represent the best judgment of the majority who voted on it, but the trial of a lawsuit, with a jury passing upon the facts, is a part of the system of the administration of the law. The jury is not supposed to possess legal knowledge. They get the law from the court

and they are to pass upon the facts. The mere fact that judges disagree as to whether or not judges of the law should be reversed as to construction put upon statutes does not convince me for a minute that the rule of the unanimous verdict by jury is one of the essential liberties of the citizen.

In my judgment, there will be more legislation increasing the opportunities for delay in the selection of juries, more legislation with reference to the qualifications of jurors, and all that kind of thing, if you adopt this provision than there will be if you follow the fundamental law in this respect. I have looked up the states that have made this change and it is interesting. We do not find any of these solid states, like New York, Massachusetts, Maine and Michigan, making any changes in that old law. Here is a list of the states, as compiled by the Legislative Reference Bureau, who have adopted the less than unanimous verdict provision: California, Idaho, Nevada, Oklahoma, Texas, and Montana. None of us must look to these states for precedent in forming the great basic principles of our Constitution, in my judgment, wherever they conflict with the time-worn precedents of the good old states of this nation that stand out like landmarks. In Missouri they have a provision which is self-executing as to jurors in courts of record, but not in courts not of record. The other states are Kentucky, Ohio, South Dakota, Arizona, Mississippi, Washington, Minnesota, Colorado and New Mexico. There the constitutions permit legislative provision for less than unanimous verdicts, and in Minnesota the subject of what the legislative provision should be has been the cause of debate before nearly every legislative assembly since the constitution was drafted.

In Texas nine or more jurors may return a verdict. In Texas a jury may be waived unless the party demanding it pays a fee, and in Texas a jury trial is demanded in probably not more than one out of four cases. The administration of the law, the determination of questions of fact, and the solid, substantial, safe, sane and conservative principle has been so well stated by the delegate from Kane that I hesitate to speak further on that subject. This is a system which has stood us in good stead for so long and, in my judgment, it is mighty necessary that we stick by precedent and do not give the legislature an invitation to go tinkering with the jury system.

Mr. CUTTING (Cook). In Cook county the condition of things which the gentleman from Will and the gentleman from Champaign have described does not and cannot exist. We have a commissioner of jurors there and he draws the jury, and nobody who wants to get on a jury can do it. There is no such thing as taking the hangers-on around the court. All the jurors for the circuit courts and the superior courts are put into one large room, and when anybody is excused from a jury in a particular case there is a draft on the reservoir from which they all come. That condition which the gentlemen have described does not exist in Cook county, and I am sorry to learn that it exists in the country.

Mr. TAFF (Fulton). It seems to me there is one matter to which attention has not been paid this afternoon. In one very, very able argument made this afternoon for a verdict which was not unanimous a speaker stated that he would be in favor of that provided it was changed to some certain number. Let me call attention to the fact, gentlemen, that this afternoon we are voting upon the matter here contained. The gentleman from Will has suggested in his amendment, as I understand, that a jury of less than twelve be permitted, but if his amendment prevails it does not carry with it a suggestion that less than a unanimous verdict in civil cases may be authorized by law. Let me call your attention to the fact, Mr. Chairman, that the fact has not been placed before this Convention that the number less than the majority which it may be, if this amendment loses out, and the original provision has not been suggested; that this proviso here leaves it open for the jury as to number; and we have a right to believe that if this provision of the gentleman from Will shall prevail that in the ordinary case of importance it will always be twelve, and yet it is not provided as to what number of that twelve or

what proportion shall reach a verdict. I am sure that the gentleman from Cook who has ably defended this proposition is not in favor of that kind of a verdict. Otherwise, it is my understanding that this provision did not contain a proviso that it should be a verdict of a bare majority.

With that suggestion having been made, I want to go on record as insisting that if we grant a jury of less than twelve that it should be an unanimous verdict. The gentleman from Cook has said that the difficulties which have been mentioned do not prevail in Cook county. That may be, but all over the State they do prevail. The bulwark of the law and the foundation for the protection for the property of every man should be carefully considered before you move here to allow a jury of less than twelve, but to allow a verdict of less than twelve is breaking down a system which is based on sound practice. Therefore, Mr. Chairman, I insist that we adhere to the old proposition of an unanimous verdict, but that the verdict may be by a jury of less than twelve, if the legislature so authorizes.

Mr. DUPUY (Cook). What I have to say is based entirely on my observations and conclusions gathered from six years' service on the superior bench in Chicago and in the criminal courts. I am opposed to this proposition. I think we should reserve to the jury system the same number twelve men, as heretofore existed. I have in mind two particular occurrences that make me opposed to this proposition. I kept a record of the number of hours spent in the course of one court in the trial of different classes of cases. Eighty per cent of the time was occupied by personal accident cases. I remember one time a man of the highest standing came into my court, a man of splendid education, excellent character, wide business interests. He was in court for three weeks and he did not serve on a single jury. He was challenged every time. The plaintiffs in that class of cases do not want that class of man on their juries. You say the verdicts are often the results of bias or prejudice or feelings on the part of jurors. We know that is so, and in order to preserve a remedy for that sort of thing, we have one man sitting on the bench to pass on the judgment of the twelve men in the jury box, and if he says that the jury reached their verdict by bias or prejudice, he sets it aside. Of course, that involves his passing on the question as to whether they have reached a right or wrong verdict. If they have reached a right verdict, he has no right to say that it is the result of passion or prejudice. If it is wrong, he ought to have the power to set it aside, as he ordinarily does. It is a part of the safeguard of the administration of justice that he should have that power.

I think cases of corruption and disagreement are rare. Of course they take place and they are much to be regretted. Sometimes a jury does delay in bringing in a verdict which ought to be speedily arrived at, but it is a part of the imperfection of human nature. I am not convinced that we should depart from an institution so long established and which has worked so well as the administration of the law which requires that facts in a case shall be passed on by a jury of twelve men drawn from the various walks of life, and I do not think that anything less than a unanimous verdict should be required.

Mr. McEWEN (Cook). I wish to say that I am opposed to anything less than a unanimous verdict. I am not opposed to a jury of less than twelve men but I believe it does not work out fairly, nor do we get the average sentiment of the men if you exclude one or two or three men from the result of the verdict. In Chicago I think that is especially true, that we need the unanimous verdict. I do not believe that one man in forty pays taxes in Chicago. If you try a case and pick a jury, I think you will be lucky if you get one man who pays taxes or who has any business or property interests, upon the jury. I think if you remove that man from the jury you immediately add to the percentage of verdicts favorable to plaintiffs, and you immediately add a percentage to the amount of the verdict. I think a case which has merit can readily be won and a substantial verdict recovered at the present time in Cook county. In fact, I

think we run very high in percentage of verdicts and very high in amounts rendered in different suits. My conclusion is that we do not get an average where you allow less than the number of men empanelled to render the verdict and to exclude from the final result the man who may have an adverse interest or adverse sympathy to the great majority in the case.

I suspect myself sometimes of being a stand-patter; that is, that I am loathe to leave the old institutions and the old experiences of hundreds of years. I believe that we naturally must progress and that we ought to be able to improve from time to time, and yet in those matters that involve the human element I do not believe that we can keep changing and changing without going beyond the line of safety. A verdict to me represents an average of human judgment, and sometimes I think it is an average of human sense, rather than any logical deduction from facts that are found in this case. Largely the instrument by which juries are guided are forms of words rather than living things, and when a juror gets through debating in his mind over the different problems that arise, he has a kind of general sense that represents his conclusion, and when you take an average of twelve men, if they come to a conclusion, I think that that represents an average of sense. Personally, I cannot bring myself to vote for less than a unanimous verdict.

CHAIRMAN RINAKER. I would like to say just a word in explanation as to my view about this, not speaking for the committee. I think that there might be some improvement in the machinery for determining things, and as to which I entertain the same prejudices that most of the speakers have spoken of here. I favor that which has been tried, but I did not see that there was a serious objection to the Constitution, which is intended to cover a long term of years, to permit the trial of experiments such as are specified in this proposed amendments, none of which are self-executing, but are subject to legislative control, adoption if the legislature sees fit, or rejection if found to be unsatisfactory. The question is on the adoption of the second clause of the substituted amendment.

(Motion lost.)

Mr. DEITZ (Rock Island). If it is in order, I would like to move to strike out from Section 5 in the third and fourth lines these words "less than a unanimous verdict in civil cases may be authorized by law."

CHAIRMAN RINAKER. If the gentleman will withhold his motion until we complete the consideration of the third clause of the substitute, we will then have the whole matter before us for amendment or consideration.

Mr. HAMILL (Cook). I am opposed to the amendment because I think if women want equal rights they should have equal duties. There is no such thing as a right without corresponding duties, and when the women come before us and say they are our equals and that they want the same rights, I am for them, but I want them to have the same duties and responsibilities.

Mr. DIETZ (Rock Island). May I ask the delegate from Cook a question with relation to the duty. Would not that be similar to requiring all persons who are entitled to vote to go to the polls?

Mr. HAMILL (Cook). No.

Mr. DIETZ (Rock Island). Is there anything in the Constitution of this State as to who shall serve on a jury? Isn't that a legislative matter entirely, and does not the legislature provide who shall serve and who shall be exempt from service?

Mr. CORLETT (Will). It has already been stated that the words "right of trial as heretofore enjoyed" mean a jury of twelve men.

Mr. W. A. JOHNSON (Bureau). Who are included in the word "twelve"? Is it twelve citizens or twelve persons?

Mr. CORLETT (Will). It means twelve jurors.

Mr. W. A. JOHNSON (Bureau). Male or female, or just citizens?

Mr. CORLETT (Will). I thought I had explained that Section 5 of the Bill of Rights of the Constitution of 1870, containing the provision as to the right of trial by jury as heretofore enjoyed, had been construed to mean

a jury such as existed at the time the constitution was adopted, and that was a jury of twelve men.

Mr. W. A. JOHNSON (Bureau). Twelve men, citizens or aliens?

Mr. CORLETT (Will). Twelve men, citizens, although there is a case where a man not a citizen sat on a jury and the case was affirmed.

Mr. W. A. JOHNSON (Bureau). What case is that?

Mr. CORLETT (Will). I haven't it in mind. I read it twenty-five or thirty years ago. I can look it up for you if you like.

Mr. W. A. JOHNSON (Bureau). My point is this: If twelve men means twelve citizens, and if women now are given the right to vote, then they are included within the twelve, and the last clause or sentence, "women shall be eligible to jury service," is surplusage.

Mr. TODD (Peoria). I asked the question because I wanted to bring out the fact that exemptions are now allowed by the legislature. I think by striking out the word "men" it opens the way for women. But there is nothing in the Constitution that requires any man to serve as a juror except where it is provided by the legislature, and certain exemptions are allowed.

Mr. SUTHERLAND (Cook). As a substitute for the pending amendment I move that the word "shall," in line 4 of Section 5, be stricken out. As the proposed amendment reads it seems to me it is rather farcical. Women shall be eligible but shall not be compelled. They cannot be compelled is the effect of it. The law now can compel citizens to give that service, and I think that with the striking out of the word "shall" the desired effect will be obtained.

Mr. KERRICK (McLean). Suppose under our present system of selecting jurors, a system whereby the supervisor of each county is directed to furnish names and addresses of persons, and when those names are drawn out by some person for the jury you would, of course, have the names of women. No supervisor would dare to send in names only of men. Suppose you are calling for a panel and only women were drawn. You are in a predicament where you cannot compel them to serve, and if they feel like it they can say they do not want to serve.

Mr. SUTHERLAND (Cook). I think the gentleman from McLean is speaking in favor of my amendment and my substitute. My amendment would leave it in the power of the General Assembly to meet that situation.

Mr. KERRICK (McLean). In other words, we will have to change our present method of selecting juries?

Mr. SUTHERLAND (Cook). Not necessarily, no.

CHAIRMAN RINAKER. The question is upon the motion of the gentleman from Cook, making the section read: "Women may be eligible to jury service." I would say that the language as it appears in the printed proposal offered by Judge Cutting is the language that was suggested by some woman's club of Chicago.

Mr. DE YOUNG (Cook). It seems to me we are putting in some words here that are wholly unnecessary. After all, it depends upon the exercise of legislative power, does it not? Of course, you say "the right of trial as heretofore enjoyed." I understand that that applies to men, but there is no limitation in this section, as I see it, that would prohibit women from service.

Mr. HAMILL (Cook). I want enlightenment on what is meant by "may be eligible." Eligible merely means "may be chosen." It is merely permissive in itself. To say "may be eligible" is to say "may be chosen."

Mr. SUTHERLAND (Cook). I yield to the chairman of the committee on phraseology and style and I withdraw the substitute.

Mr. DUNLAP (Champaign). I desire to offer an amendment to strike out the sentence altogether. The effect of the motion to strike out will be a substitute for the pending motion.

CHAIRMAN RINAKER. I am inclined to think that the motion of the gentleman from Champaign would be out of order.

Mr. BARR (Will). It seems to me that the first and second lines, which say, "the right to trial by jury as heretofore enjoyed," if adopted into this Constitution, would mean that the make-up of a jury must be men only. There is some provision in this section providing that women may serve, and therefore it occurs to me if it is desired that women shall be subject to service on a jury there must be a definite statement to that effect.

Secondly, it occurs to me that the last line, which says, "women shall be eligible to jury service," would enable the legislature to provide that women must serve on juries or that they might serve on juries. If it is desired by this Constitutional Convention to provide that the legislature must require women to serve, then it seems to me that we must add something to the statement "women shall be eligible to jury service." Otherwise the legislature may provide that women may or shall serve, the Constitution being a limitation on the legislature and not, it seems to me, as written here, a direction as to what women may or may not do, and that under the provision as it stands here now the legislature may provide that women shall serve on juries unless excused for good cause. Therefore, it seems to me if it is the desire of the Constitutional Convention to limit the power of the legislature so it may not by law compel women to serve, there should be a provision that women shall be eligible to service but may not be required to serve. It occurs to me, if it is the desire to limit the legislature, that we must write into the Constitution an amendment similar to that suggested by the gentleman from Will, my associate.

Mr. MORRIS (Cook). I make the point of order that the substitute amendment is not in order. The substitute was defeated and we have passed upon the first and second sections. Now, a motion to strike out without any motion to insert anything is tantamount to a motion to reject, and you cannot do indirectly what you cannot do directly. The substitute proposed must replace something else. Otherwise we are simply voting to strike out that which has never been inserted. If we consider it all together the motion or amendment to the substitute would be in order, but because we are considering it separately it is just as if there was a separate motion and therefore there would be nothing left.

CHAIRMAN RINAKER. I think it is out of order. I think I shall rule that way.

Mr. KERRICK (McLean). I withdraw my amendment and offer as a substitute amendment the following: "Women shall be permitted to serve on a jury."

Mr. MORRIS (Cook). I would like a ruling on the point of order as to whether the motion of the gentleman from Champaign is in order.

CHAIRMAN RINAKER. I have ruled that it is out of order.

Mr. CRUDEN (Cook). During the month of January I introduced an amendment something like Mr. Corlett's and it was tabled. Later on it came before the committee on Bill of Rights. Some association of women of Chicago thereafter took the matter up with the committee and they had sufficient influence with the committee to have them include this sentence. There are many women who are advocating suffrage who would like to be on juries, and there are many others who do not believe they should be liable to that service. My proposal was introduced for the purpose of taking care of women who would rather be privileged to stay home with their families, therefore I am sure that I could go before the people and stand upon the proposal that I introduced. For that reason I am in favor of the amendment offered by Mr. Corlett. I think it ought to be adopted. There are many women in this State who do not care to be forced into jury service and I think this ought to be adopted.

CHAIRMAN RINAKER. The question is upon the motion of the gentleman from McLean that the substitute be offered to be inserted for the third clause.

Mr. JARMAN (Schuyler). I move an amendment to substitute the word "no" after "shall".

CHAIRMAN RINAKER. I think that motion would be out of order.

Mr. JARMAN (Schuyler). Why?

CHAIRMAN RINAKER. You already have a motion on a substitute.

Mr. JARMAN (Schuyler). It is an amendment to a substitute, which is a very different thing.

Mr. DAWES (Cook). I rise to a point of order. My point of order is that the substitute offered by the delegate from Will (Mr. Corlett) is an amendment to the report of the committee, and the amendment offered by the delegate from McLean is an amendment to that amendment, and it is not in order that another amendment to the amendment can be considered.

Mr. KERRICK (McLean). Another point is that it is pure negation. It is not an amendment.

Mr. HAMILL (Cook). Before the chair rules on that point of order, may I be heard briefly? Under the rules of the House of Representatives, the indicated ruling of the chair would be correct, but under the rules under which we are proceeding there is no such thing as a substitute for an amendment. A substitute is, in effect, a motion to amend by striking out something and inserting something else. That is the rule laid down in our book here and therefore the point of order is well taken. The motion of the delegate from Will to substitute his words for those of the committee is a motion to strike out the third clause of the committee report and insert the words as submitted. The motion by the delegate from McLean is to amend that by striking out those words and inserting his. An amendment to an amendment is as far as we can proceed under our rules.

CHAIRMAN RINAKER. The chair will rule the motion of the gentleman from Schuyler out of order. The question is upon the motion of the gentleman from McLean and the clerk will read it.

(Motion lost.)

CHAIRMAN RINAKER. The question is now upon the substitute offered by the gentleman from Will.

(Motion prevailed.)

Mr. TRAUTMANN (St. Clair). I move that the committee do now rise and report progress.

(Motion prevailed.)

(President Woodward in the chair.)

Mr. RINAKER (Macoupin). The Committee of the Whole, having under consideration the reports of the Committee on Bill of Rights, reports progress, and ask leave to sit again.

Mr. HAMILL (Cook). I move the report be adopted.

(Motion prevailed.)

Mr. RINAKER (Macoupin). The Committee on Bill of Rights submits its report on Proposals Nos. 179, 136, and 232.

THE PRESIDENT. Under the rules, the reports will be printed and lie on the table.

Mr. LINDLY (Bond). I move that the Convention do adjourn until tomorrow morning at nine o'clock.

Whereupon the Convention adjourned to meet on Wednesday, June 30th, 9:00 o'clock a. m.

WEDNESDAY, JUNE 30, 1920.**9:00 o'Clock A. M.**

Convention convened pursuant to adjournment.

The President in the chair.

Prayer by the Chaplain.

THE PRESIDENT. The Journal of Monday, June 28th, 1920, has been placed on the delegates' desks and is now subject to correction. There being no corrections proposed, the Journal of Monday, June 28th, will stand approved; and it is so ordered.

Whereupon the Convention proceeded upon the order of special orders of the day, reports of standing committees, reports of select committees, motions and resolutions.

Mr. REVELL (Cook). I think likely my motion will be considered a special order for today.

THE PRESIDENT. Will the delegate state the motion for the information of the Convention?

Mr. REVELL (Cook). The motion is that when this Convention adjourn this week it will adjourn for a recess, to convene November 11th.

THE PRESIDENT. The question is on the motion made by the delegate from Cook.

Mr. REVELL (Cook). On that question, let me say that I have been in consultation this morning during the last five minutes with two or three delegates, some of whom have asked me to defer the motion until tomorrow morning. I agreed, but on further consideration we find there is nothing to be obtained by deferring until tomorrow morning, in view of the fact that a certain matter, expected to be discussed today is likely not to be discussed.

It is my understanding that the Committee on Rules and Procedure has met and decided to go on with this work, next week or longer. If it were an ordinary matter of rules or procedure, I doubt if any man would want to stand on the floor and oppose their order. It is not in the sense of opposition in any way. It is a matter of policy, tactical policy if you wish, in which opposition comes. If the statements which came to me are correct, and I may be informed if I state them wrongly, they are to the effect that the Committee on Rules and Procedure want to finish up the work of this Convention on first readings, then refer all matters to the Committee on Phraseology and Style.

Every delegate in this room knows what that means, but the people of the State of Illinois do not know what it means. The substance of what this Convention intends to do will be there, even if the style may not be there. It will be upon that substance that the people of the State will consider the various things we have discussed and the various questions that we may conclude or finish before the end of this present session.

Here is where the difference in policy lies. We all know what a finished product is. It is finished. I am speaking now of the idea that will prevail so far as the people of this State are concerned. When a product is finished, it is there for inspection, for criticism or for approval.

There are some values to a product which is not finished, at least it may be said with truth that it cannot be assailed because of its imperfections. A little addition may be added to its base. The central effect may be modified, or even a sky-piece may be removed, if it is unfinished. But when finished, in the sense of it being accepted by this committee, and goes to the Committee on Phraseology and Style, and in a campaign such as we are to have in Illinois—which, my friends, is not going to be any game of tiddly-

winks—you will find your so-called finished product may come back to you in an entirely different way from what we send it out.

It is my thought that it is a question of policy. Nothing will be lost by putting these things over. There is nearly as much work to be done as has been done on proposals during the time that we have been here, excepting of course the days and months taken for organization.

We still have the Revenue Bill, the Judiciary, the Balance of the Bill of Rights, the Initiative and Referendum, Home Rule and any number of other bills, as well as the unfinished reports already before us. We are going to try to rush this through in a period of what? Some say the end of next week. If it is closed by the end of that week, it means in addition to this week, and you know what we accomplished yesterday—in addition to this week you would have at the outside four days next week to put all the work through.

Others say, "We do not have to finish next week." That puts the question back and emphasizes the position I take. The time has come, after seven months of work, in which we have not accomplished all we hoped to accomplish—but for which I think there is no blame or condemnation coming to this Convention or to any delegate. The Convention has done the best it could, I have no blame to place, because I believe in threshing all questions out so that everyone will have an opportunity to have his say.

But when we come back in the Fall, I will be one of those delegates that will try to see if we cannot get the time of argument reduced to the adopted rules. Anything required to be said by anyone in this house can be said in ten minutes by the proponents, and by the others in five. It will be conceded that if we can finish this work of first reading in a comparatively few days now, we could also finish it in a few days after the elections have been held. The matter of referring it in a finished state to the Committee on Phraseology and Style sounds a great deal better than it really is.

My colleague, Mr. Hamill, is Chairman of that committee. I am sure you will not object if I say just a word regarding that committee. I think its work is going to be finished quickly at any time. I noticed that when its last report was adopted a proposal which was adopted but a few days before and referred to the Committee on Phraseology and Style was included in the report. This indicates that it is not going to take a long time for that committee to do its work.

But the important thing, Mr. Chairman, is that we are here to secure a Constitution that we hope will last fifty or one hundred years, and for us to take any chances of having matters discussed here on account of the coming elections which may injure the possibility of success in the ratification is a mistake. Taking any of these big, broad questions which we propose to discuss, and try to rush them through when we have been sitting here seven months, and we know how much has been accomplished, I think is a serious tactical blunder.

You may vote this up or vote it down. I am not going to get excited either way. If this matter had come up just as it does now a month or two months ago, it would be quite another proposition. You would have no excuse for adjourning for recess or putting the thing over, but we are right on the edge of the month of July. There is an excuse, if excuse there need be, to take a recess. Tomorrow probably will be the beginning of the primary campaign. Following the primaries, you know what occurs, and then resultant elections following the primary. We have reason to keep this Constitutional Convention out of politics from start to finish. Let us close it up this week, or as soon as possible, and we will continue to keep it out of politics, even if it defers ratification or action by the people until a period along toward the middle of next year. Then it would be better for the Constitution, looking toward the ratification, my friends.

I hope that we can close this matter up this week. If there is an important matter to attend to today or tomorrow or the next day, rather than to put the State to the expense it will be put to for an entire week, next

week, and rather than put to some of these delegates who pay as much as twenty-five dollars each time to come here—we are here—let us stay until Saturday night and attend to the several matters which you say should be attended to. Monday will be a holiday. Following such holidays, with the number of members who hope to take trips to Minnesota and Michigan, a houseboat party on the Mississippi, I doubt if you are going to get a quorum on Tuesday. That means you will only have two or three days' work next week. It would be a mistake to go on and I sincerely trust we will close the labors of this Convention this week.

Mr. HAMILL (Cook). The fact that my colleague is a golf player and I am not is not the only reason for a difference of opinion between us on this question. If we recess, I will not play golf. There are in my judgment substantial reasons why this Convention should not recess at the end of this week, and very briefly, I will state some of them.

It is no secret that there is one highly controversial matter still pending before the Convention. There have been many conferences held during the last week or ten days, the purpose of which has been, and the hope of the men partaking in them has been for some solution of that controversy. The end is not yet. I have some hopes in the course of the next few days that the gentlemen from Cook and the gentlemen from down State will find themselves not so far apart as they have been on that question. If this Convention, Mr. President, should recess over the summer with that question unsettled, I should despair of it ever reconvening with any despatch for the business for which it was elected. If that question can be solved, and solved to the satisfaction of a majority of the Convention, I think we can recess and come back with the expectation of disposing of the work to the satisfaction of ourselves and our constituents. I regard it as of the utmost importance that that matter, if it can be solved, be solved before we recess over the summer. For that reason I hope the motion will be voted down.

Mr. LOHMAN (Cook). I think the gentleman from Cook, is absolutely correct, I do not think, however, he went far enough. This Convention was called for the purpose of revising, altering or amending the Constitution of 1870. After nearly six months, what have we accomplished? We are the targets of the daily press and are being held up to ridicule by the public.

Mr. Chairman, I think that you have accomplished more than any man could accomplish in the position you occupy, but to my mind this is no time or has been no time to call a Constitutional Convention. There is too much unrest. It is practically impossible to get the attention of the public.

Now, after six months, just what have we to offer? What can I tell my people? I can go back and tell them that we have limited Cook County's representation in the General Assembly. I can tell Chicago we are not going to have any home rule. I know labor is not satisfied, because every issue of their journal so indicates.

We have had representatives of the city council of Chicago here, who gave you a general idea of what Chicago wanted, but our measures that have been brought out by committees are such that I cannot see that Chicago has received anything.

I think, Mr. President, the work that we have tried to do might just as well be sent to the waste basket. I think we should consider one proposition and put it up to the people, and that is Section 2 of Article XIV of the Constitution of 1870, providing for future amendments to the Constitution. We have a proposal, No. 53, introduced February 3rd by one of the delegates, and I think this proposition should be brought out on the floor of the Convention, to discuss that proposal and consider that the work of the Convention and put it up to the people and let them vote on that particular proposition, and that alone.

Mr. GREEN (Champaign). It is not strange that in a Convention of the Whole that these men should have differences in matters applying to themselves.

I am quite sure that the motives which actuate the distinguished delegate from Cook who presents the suggestion of immediate adjournment are per-

fectly sincere and to his mind sufficient. It is manifest from the statements of the delegate from Cook who just spoke that there is a difference of opinion among the delegates from Cook as to what work this Convention should do. It was debated when the Convention met and organized as to what course of work should be laid out.

At that time it was evident to me there was bound to come a sharp clash of opinion and a great disappointment to each and every delegate on some particular matter with which he was concerned. However, it does seem to me that it would be cowardly at this time to abandon that program and rescind the action taken about two weeks ago and leave this work in this condition. There is much truth in the argument advanced by the delegate from Cook, Mr. Revell, that what we do here will be the subject of debate in the campaign. It is, however, equally true if this Convention accomplishes its final issue it will have to face the result of its labors.

We have laid out a program to be followed to the 10th of July. It was hoped by the 10th of July these important questions could be referred to the Committee on Phraseology and Style. There are two or three of them on which the Convention ought to take a stand, though not a final stand. The work ought to be left in the position so there is an impelling desire on the part of every delegate to get back to this job and clean it up.

I am not particularly anxious to face all of these responsibilities in a hurry, but just now we have reached a place where it seems to me it would be an evidence of cowardice to go away and leave in this half-baked condition these important questions on which we ought to act on first reading and get them referred to the Committee on Phraseology and Style.

The important matter mentioned by the delegate from Cook, Mr. Hamill, I think we all hope there may be some agreement reached on to the satisfaction of the great preponderating majority of the delegates, and that is sufficient of itself why we ought not to take this action now.

There are other matters perhaps of as much importance which ought to be considered. The language of the resolution adopted recently is it hoped that all matters on or before the 10th day of July, 1920, shall be in such shape that we can take a recess. That resolution was adopted without a dissenting vote. It has not been kept in all respects. In fact, some of us were here on Mondays and Fridays when others were not, and I believe those who have made the sacrifice to keep the spirit of this resolution and other resolutions to stay here and work on Fridays will share the view that I take, that we ought not to abandon the program, but ought at least to observe the spirit of this resolution and stay here at any rate next week.

Mr. McEWEN (Cook). For fear that my silence might be construed in an acquiescence of some of the remarks of the gentleman from Cook, I desire to state my position.

I am not prepared to say that our work is a failure and ought to be put in the wastebasket and we ought to go home and tell the people something. I don't believe that.

I can sympathize somewhat with the feelings that come to every man at this time of the year, those feeling that come annually, drilled into us by our early experiences. School was out, last week; school was out similar weeks in years gone by, when we thought we were free citizens and boys again, with absolute power to run barefooted all summer, fish in the river or bullheads, go swimming three times a day if our parents didn't find it out, and do a lot of those things, go berry hunting and nut hunting and all those things which occur in our daily boyhood. Every year comes the feeling that we would like to go out and run barefooted, but we are here on a man's job. The people have selected us to prepare a new Constitution. They have elected us to come here and we have worked faithfully and while we have disagreed and argued, it is no discredit to us. It indicates to me what has been passed upon in this Convention as a sort of a criticism; it probably is a just one, but it indicates to me that there is a great deal of individual ability in the Convention, and for that reason all views and all angles are approached and presented. Now, just at the time when our committee

reports are coming in and all of this work is beginning to take concrete form, something that we can go and present to our people and get their views on it, some people say that we should sink the ship and swim for the shore.

Mr. REVELL (Cook). You do not mean that is what I said, do you?

Mr. McEWEN (Cook). Well, I heard what you said. I am not distorting anybody's language.

Mr. REVELL (Cook). I do not want you to distort mine.

Mr. McEWEN (Cook). I say if you quit at the time when the reports are coming in and before they crystallize into form, you lose most of the work of getting them in, because next Fall you will have to do it all over again. And some of the gentlemen will perhaps have forgotten, and may be bewildered at that time. Our work will be discredited by the public; some say it is now discredited. It amounts simply to this—jump overboard and let the old ship take care of itself. That is the way I construe it.

If we haven't the courage to face the criticism of the press or anybody else and to face it before we go to the end, then we haven't the courage that delegates to a Constitutional Convention ought to have. Wait until we are through, and then say to our critics, "We are glad of the criticism."

I say that we ought to go on, regardless of our own personal convenience and desires or concerns. Go on until we have at least tentatively a complete draft of a Constitution that everybody can discuss. When we can do that, we can go home and justify ourselves. I came here believing in a new Constitution. I did not come here believing in advance a Constitution was going to be a failure. I realized the attempt was necessary to improve our form of the details of our government. Until we have gone to the end, we have no right to call ourselves and our work failures.

Mr. BARR (Will). I agree very fully with the remarks that have been made by the delegate from Cook who has last spoken. I think it would be a very great mistake for this Convention to take a recess at this particular time.

I appreciate the fact that from an outsider's point of view, at least, it does not seem as though we have made as rapid progress as we might have made, but I think most of us will agree that we have kept about as busy as we could during the period of time we have been here.

It takes some time to get down to doing real work, and as has been suggested by the delegate who has just spoken, the result of these months of conferences and discussions is just now at the point of completion. Practically all of the reports of the committees are before the Convention at this time, or will be within the next day or two, and it seems to me that it would be most unwise to adjourn or to take a recess at this time and leave these important matters all up in the air, so to speak. I think it would be a very grave mistake to recess before the matter pertaining to the make-up of the legislature is finally settled. There is a motion made on the record for reconsideration and, as has been suggested, there have been a number of conferences. We are all anxious that the Constitution should be a good Constitution. We are all anxious that that Constitution should be adopted, and I think that it is the expectation of those who are working along this line on this particular committee of legislative subjects that we may be able to present something during the coming week or next week that will be perhaps satisfactory to some and may not be entirely satisfactory to all. I don't know what the conclusions may be, but I am sure they will be right.

Now, gentlemen, the Committee on Revenue—the chairman is here; I won't say anything about that committee. The Committee on Judiciary and one or two other committees either have reported or are about to report. It seems to me it would be a most excellent plan to have the reports of these important committees on these urgent subjects so that they might be disposed of and put into the hands of the Committee on Phraseology and Style and then take a recess.

I don't believe the Constitutional Convention is a failure. We know a great deal better than the people on the outside, even those who are writing

in the newspapers, writing the newspaper stories, whether or not we are doing what appears to us satisfactory work.

I have generally found when I have done a job in a way that satisfies myself, as a rule the average outside person will not be thoroughly dissatisfied, and I am inclined to think when this Constitutional Convention, made up of the membership it is made up of, has completed a product here that appears to this Convention reasonably satisfactory and sufficiently satisfactory to the composite judgment of these delegates to be presented to the people, that the people will not then be displeased to the extent of refusing to accept it. I think we should go along with the idea that this Constitution is going to be adopted. We will have criticism—perhaps that is helpful—but we must not modify our conduct or allow our travel of the road to be influenced because complaint is made here and other complaints made there and somebody says that what we are doing is not effective. Let us go along the road the way we think is a right way to go. I think the outcome will be satisfactory. Let us finish up these urgent matters. It is a hot week to be away, and the rest of us would all like to get out into the woods some place or go up on the lakes, but we have this job on our hands and it is just at the point where it cannot very well be allowed to drift. If we do, I believe we will lose a lot of important time and valuable time. I think if we stay here and do not talk too long on some matters under discussion that by the end of next week, or by the 10th at least, we will be able to have these important questions in the hands of the Committee on Phraseology and Style and that we can go away and enjoy our vacations and the hotly contested elections that will come along during the next two months.

Mr. ELTING (McDonough). I do not take the view of the situation that many of us are inclined to. I think this Convention has made great progress. I believe that nothing but good can come from this body of gentlemen.

It is not a question of speed, but a question of results. This Constitution, as has been suggested by a member from Cook, is in its infancy, it is in the embryo, and I am in favor of having the Constitution fully developed and stripped of its swaddling clothes and dressed by the good judgment of this Convention before it is submitted to the public for confirmation or criticism.

Let us see where we are. Many of these important questions are still in committees. I cannot see anything to be gained unless we feel that we can do the subject absolute justice in a hurry by hurrying it up from the committee, then hurrying it through the Committee of the Whole just for the purpose of landing it with the Committee on Phraseology and Style. There are intermediate points to be treated, and any product we would send out the first draft would not be a criterion of what this body might do in the finished product.

Now, when we met here the first time some of us were country broke, some of us were city broke, and we did not pull together maybe, but now I think we can all agree that we can work single or double and stand without hitching.

I agree with the gentleman from Cook, who said it would be disastrous to go away without settling the momentous question about the limitation of Cook county. That matter requires the deliberation and the best thought and consideration of this Convention, and I do not believe in asking the aid of any outside agency like that of heat to help coerce either side in the settlement of that question. That brings to my mind a little story that I once heard. There was a man from Cook county down in Texas and he was making some long distance telephone calls and the charges were quite exorbitant. He objected to the bill that he had to pay. "Why," he said, "in Cook county we can telephone to hell for that." "But," the Texan replied, "that is only a local call." That is liable to two constructions, because it is so close to down State. I don't know whether he referred to Chicago or down State. Do not let us depend on these outside agencies to help us arrive at our judgment.

All these movements are slow. It was centuries and centuries before the people accepted the Magna Charta. It took centuries to arrive at the form of government we have here. I would not be surprised, and I would not be the one who would blame, if it took six months for the deliberation of the important questions that are before this Convention. I am not in favor of forcing jury verdicts and I am not in favor of hurrying up committees. I am not in favor of limiting the deliberations of this great body, so I agree with the gentleman from Cook that the wise thing to do is that we get these matters before the committee and then take a recess. The time will not be wasted. I know many of you will continue to study these problems, and I am not going to object now to your taking a vacation because I know what you will be thinking of. You will be thinking of the matters you are doing here and what is the best thing to do. It has been stated by members of this Convention, and it may be true, that men of our ages, and I speak that way because I am about the average age, that we can do better work and do more work if we had a little play along with it; that about eight hours of the strenuous work that we put in in this Convention is enough for the average man every day, and at this time of the year about three days a week is all any of us should work. And then we do not get the best work when our brains begin to fag. As a famous doctor once said, "The work you accomplish after the brain has begun to fag will have to be done over." Therefore I think it is true, and I contend it to be true, that if we hurry these committees in and hurry this matter through first reading it will all have to be done over, because after we have had our rest and come back and look at this proposition fairly and squarely we are liable to have to change everything that was done. I say we want the deliberate judgment and we want the best efforts of every man in this body, and I say for one that we cannot get the best results by working too long now when it is too hot for men to work.

Now, there is no use of talking about nothing being accomplished. I think great things have been accomplished. There is absolutely nothing in the statement that we must get to a certain stage to meet public opinion. We are here to make public opinion; we are not sitting here to establish any false guides; we are here to use the best judgment we can on these matters. I say that we best can do it by being deliberate and not trying to work when it is too hot for men to work, and I say it is immaterial absolutely what stage of the game we arrive at when we take a recess. It is no more important than it is when the jury is out they say "When the jury comes in, what is the verdict going to be?" You cannot tell them in advance what this Constitution is going to be. It is going to be submitted to their vote and they will or will not adopt the Constitution.

I haven't a word of criticism against anybody insisting on going ahead, the Committee on Rules, or those opposing them. I feel personally that the best thing to do, in view of the object to be obtained, is this, to be deliberate, take our time and not rush through with the business.

Mr. DAVIS (Cook). In the belief that the question raised by the motion of the delegate from Cook is thoroughly understood, I move the previous question.

(Adopted.)

Mr. BARR (Will). I want to make a motion.

THE PRESIDENT. The Committee on Rules and Procedure submits certain reports with the recommendation that they be placed on general orders.

The secretary will read them.

(Read by the secretary.)

(Reports adopted.)

THE PRESIDENT. The Committee on Rules and Procedure reports as to Proposal No. 377 that it be taken from the table and placed on the general orders. The committee asks that its report be adopted.

(Report adopted.)

Mr. BARR (Will). Mr. President, there is a motion pending to reconsider the vote by which the report of the Committee on Legislative Depart-

ment was passed some time last week. I move you that the consideration of the motion to reconsider be deferred until next Wednesday morning at nine o'clock.

THE PRESIDENT. The delegate from Will (Mr. Barr) moves that the further consideration of the motion offered by Delegate Hamill to reconsider the report of the Committee of the Whole on the report of the Legislative Department be deferred until next Wednesday morning. Are there any remarks?

Mr. HAMILL (Cook). I am quite in sympathy with the motion made by the delegate from Will that consideration be postponed until next week.

THE PRESIDENT. The Convention has some matters on the general orders for consideration, so the Convention will now resolve itself into a Committee of the Whole and Delegate Rinaker will take the chair.

(Whereupon the Committee of the Whole went into consideration of the Bill of Rights.)

(Chairman Rinaker presiding.)

CHAIRMAN RINAKER. It occurs to the chair, gentlemen, as we have this morning present probably the largest attendance that we have had at a meeting of the Committee of the Whole, in view of the time taken yesterday in the discussion of this subject and the criticism this morning as to the time taken in the discussion of the motions that were brought this morning, we try to get a new record and let the discussions be as brief and pointed as possible.

Mr. DIETZ (Rock Island). I move to amend Section 5 by striking out in the fourth line thereof these words: "and less than a unanimous verdict in civil cases."

Mr. Chairman and gentlemen of the committee, that simply raises the question that was under debate. I am not adding anything to what has been debated on this subject. The object and the main purpose to be obtained by a jury trial is to secure the composite judgment of twelve men, and it must be manifest therefore that to assail the unanimous verdict is to assail the very system itself.

Mr. STEWART (Edgar). As it stands under the amendment made by the delegate, Mr. Corlett, yesterday, we passed upon precisely this same question. In that connection, I ask that the amendment offered by Delegate Corlett be now read to see whether or not the action taken in that amendment did not pass on the identical amendment which is now offered here.

CHAIRMAN RINAKER. According to the recollection of the chair, the precise question was not passed upon. We are now voting upon the section as a whole; no substitute is before the committee.

Mr. STEWART (Edgar). Yes, but I insist the amendment offered by Mr. Corlett read as follows: "The trial of civil cases by a jury of less than twelve may be authorized by law," thus eliminating the words "and less than a unanimous verdict in civil cases."

Mr. DUNLAP (Champaign). If it was the ruling of the chair that that was substantially the motion of the gentleman from Will, I would like to move to reconsider the vote on the amendment of the gentleman from Will.

CHAIRMAN RINAKER. The chair rules that it was the same.

Mr. DUNLAP (Champaign). I move a reconsideration of the vote on the amendment of the gentleman from Will.

(Adopted.)

CHAIRMAN RINAKER. The question is on the adoption of the second clause offered by the gentleman from Will.

Mr. CORLETT (Will). In this connection, I wish to say that there are many delegates in this Convention who hold the opinion that a jury should return a verdict, but are inclined to the opinion that a jury of less than twelve are not and should not be authorized by law to return a verdict.

But this Section 1 of the proposed amendment embodies under the construction placed upon it by the chair, two questions, first, shall we authorize a jury of less than twelve, and, second, shall we authorize a verdict by less than a unanimous jury?

Now, in order that the first portion of this question can be reached and that the delegates shall not be required to vote upon two questions at the same time, I ask that the substitute offered by myself be withdrawn and the vote taken on the amendment offered by the delegate from Rock Island. That will raise the question.

CHAIRMAN RINAKER. The substitute as to the second clause offered by the gentleman from Will is withdrawn. The question then returns to the amendment offered by the gentleman from Rock Island.

(Adopted.)

Mr. GEE (Lawrence). I want to offer as a substitute for Section 5 of this proposal the present constitutional provision of the Constitution of 1870.

Mr. JARMAN (Schuyler). I move as an amendment to the motion made by the gentleman that Section 5 of the present Constitution be substituted for this section, "but women shall not be eligible for jury service."

CHAIRMAN RINAKER. The question is upon the motion to amend the motion of the gentleman from Lawrence county. The clerk will read the amendment as offered by the gentleman from Schuyler.

(Amendment read.)

CHAIRMAN RINAKER. The amendment as offered is hardly a substitute for the motion of the gentleman from Lawrence. If the gentleman from Lawrence will withhold his motion for a few minutes, we can discuss this as an amendment to the pending question.

Mr. GEE (Lawrence). All right. I will withdraw my motion.

Mr. Chairman, I want to get the motion before the house.

CHAIRMAN RINAKER. It is before the house as a motion to amend Section 5.

Mr. JARMAN (Schuyler). My motion was to amend Section 5 of the present Constitution.

CHAIRMAN RINAKER. The chair did not so understand it.

Mr. JARMAN (Schuyler). This amendment simply provides that women shall not be eligible for jury service. I need not remark on that question. That is a simple issue that no woman shall be eligible to jury service. That is my position, and that is the position I want to get before the house.

Mr. DAVIS (Cook). The gentleman from Schuyler does not mean what he says. The amendment offered by him is of much wider character, because the instant motion is the substitution of the present Section 5 of the present Constitution of 1870 in place of the Section 5 which is reported here, and that there be added the words making women ineligible for jury service. Is that the gentleman's motion, or is it not?

CHAIRMAN RINAKER. The motion pending before the House, if I understand it clearly, is that Section 5 of the Constitution of 1870 be substituted in lieu of Section 5 of the committee report known as No. 376 and that the words be added making the service of women on juries ineligible. That is the substance of the motion, but it was the motion of the gentleman from Lawrence with an amendment made by the gentleman from Schuyler.

Mr. HAMILL (Cook). The only question before the House is on the motion of the delegate from Schuyler that the motion of the delegate from Lawrence be amended by adding to Section 5 of the Constitution of 1870 the words making women ineligible for jury service.

Mr. DAVIS (Cook). It is not my purpose to get into a parliamentary wrangle, but I do insist that we must be orderly. The only way in which the motion of the gentleman from Lawrence is at all before us is that it proposes to amend Section 5 of the report. The Constitution of 1870 is not before us at the present moment. What we are discussing is Report 376, and we are discussing Section 5 as it exists here now. I respectfully suggest that the gentleman from Cook, Mr. Hamill, is wrong if he says that we can now vote on the amendment the effect of which is to amend Section 5 of the Constitution of 1870. We cannot consider that. If we vote on anything at all now we vote on this straight proposition. The

motion is to substitute Section 5 of the Constitution of 1870 for Section 5 of the committee's report. The gentleman from Schuyler offers an amendment to Section 5, and I am perfectly willing if we limit the amendment of the gentleman from Schuyler to Section 5 of the Constitution of 1870.

Mr. HAMILL (Cook). I wish to be heard briefly on that question. The one industry which one seems to be licensed to practice without any possible fear or without any responsibility in Cook county is the murder of husbands by wives. We have them every few days up there. Some woman gets angry and goes and shoots a man, preferably her husband, and juries of men acquit regularly, almost without leaving the jury box. I think that industry ought to be checked, a little, perhaps, but still checked. And I believe the right way to check it is to get some women in the jury box.

You let a woman be on trial before a jury of women for murder and you won't have a lot of maudlin sentimentality in the jury box. Let the women try the women and we will hang a few of them.

Mr. MILLER (Cook). Mr. Chairman and Gentlemen: In corroboration of the sentiments of the gentleman who has just spoken and who apparently believes that the open season for husbands ought not to last all year around, I remember about a year ago a woman who had just committed a murder upon a man—I have forgotten whether it was her husband or not—in open court was searched and in her pocketbook was found a clipping from a newspaper reciting the number of trials that had occurred in Cook county within two years, the women who had murdered men and the absolute uniformity of their acquittal. It is far from being a joke. There cannot be any question, I think, in any man's mind that the absolute uniformity as a result of those trials has had an effect on the actions of women who had some grudge against a man, whether it was her husband or some one else.

I am in favor of protecting not merely the husbands, but all men. I also agree if we had some women in the jury box that enterprise would be less alluring.

I remember that it is not confined to Cook county. I also happen to remember when I was in Denver about two or three years ago I read of the acquittal of a woman there who had murdered her husband and the newspapers in that city quoted the statistics showing the absolutely uniform result in such cases.

Mr. HAMILL (Cook). Do you wish to license the murdering of men?

Mr. JARMAN (Schuyler). I do not recognize that it makes any difference as to the sex or where you live. It is just as much with men as with women. It does not mean anything. We are establishing a principle here as to whether the women of this State should sit on the juries. I do not believe in the principle. I don't think it ought to be tolerated in any community.

Mr. MILLER (Cook). Why not?

Mr. JARMAN (Schuyler). They are different creatures and should not be eligible for jury service.

Mr. WHITMAN (Boone). In corroboration of the remarks made by the delegate from Cook, Mr. Hamill, a lady of my own county within the year in the presence of a court in the City of Chicago shot her husband to death. That woman was freed on the ground of insanity. She was sent to the Elgin institution for the insane, and inside of two months she had a trial for sanity, was cleared of the charge of insanity and sent home to my own county.

I respectfully submit, in view of all these matters, that the Constitution ought not at least to provide an open season for husbands.

CHAIRMAN RINAKER. The question is on the adoption of Section 5 of the Constitution for Section 5 of the committee's report.

(Motion lost.)

Mr. DIETZ (Rock Island). I move the adoption of Section 5 as amended.

Mr. DUNLAP (Champaign). I desire to offer an amendment. I think it is a mistake to have the last clause of Section 5 in the Constitution. I think now that women are franchised we ought to treat them as citizens of the State. It is a mistake to provide special provisions as far as they are concerned. If they are citizens they can have the privilege of sitting on a jury and can be excused for cause, just as well as a man. I know a number of women's organizations are opposed to having anything different in the Constitution than men, that they prefer to be classed as citizens of the State of Illinois, and it is because of that I move to amend the section by striking out the last clause of Section 5.

Mr. HAMILL (Cook). Lest it be forgotten, let me remind you what has been said. The clause as it now stands provides the right of trial by jury as heretofore enjoyed shall remain inviolate. The trial by jury has been the right of a trial by jury composed of men, and if you do not strike out this last clause you will at least leave in doubt the question of whether women can sit on juries. The court will be presented with the difficulty of determining whether women can sit in view of the requirement that the juries must be as they have heretofore been.

Mr. DUNLAP (Champaign). May I suggest that if this motion is adopted I was intending that those words be stricken out of the first paragraph?

Mr. HAMIL (Cook). They ought to stay, because they show the character of the jury.

Mr. DAVIS (Cook). Senator Dunlap says the women want to be treated as citizens of Illinois, by the Bill of Rights. I hold before me a draft which the women had presented to the Committee on Bill of Rights and they inserted in Section 5 "Women shall be eligible to jury service." The chairman will remember that the women laid some stress on the fact that the women want those words mentioned so that there would not be any doubt in their minds, and, furthermore, that they might be given the construction that the gentlemen from Cook has just referred to in regard to their rights to jury service.

The women of Illinois, as far as they were represented before the committee, wanted the fact mentioned that they shall be eligible to jury service.

CHAIRMAN RINAKER. The question is on the motion of the gentleman from Champaign.

(Motion lost.)

CHAIRMAN RINAKER. The question reverts to the question of the adoption of Section 5 as amended.

(Adopted.)

CHAIRMAN RINAKER. The question is on the adoption of Section 3, which was passed yesterday on account of the absence of some members.

Mr. MILLS (Macon). I move the adoption of the section.

Many of the members of the Committee on Bill of Rights, which considered this section are not in full accord with the last three lines of the section, which have been added to the present Section 3 of the Constitution of 1870. There are some that do not want to have any change in the present Section 3. There are others who, wanting a change, are not in full accord with the amendment as presented by the committee. At least five of the members of the Committee on Bill of Rights are not in full accord with the section as it has been presented by the committee.

It has been urged on this matter of such compelling importance, on a question affecting human rights, that a good many members of the Convention may want to be heard, but that this is hardly the time to go into the arguments which are involved in this section. It has been suggested that all of the debates on this matter be postponed to the time when this report will leave the hands of the Committee on Phraseology and Style. As a member of the Committee on Bill of Rights, I am perfectly willing to present such argument as I may have at that time. It seems to me if it is agreeable to the Convention, and without debate, we may at this time pass on the question of whether or not a change is desirable from the provisions of this

Section 3 of the present Constitution and without asking to be heard at this time I move that the following words be stricken out from Section 3 as presented:

"The reading in the public schools of sections from any version of the old and new Testaments, without comment, shall never be held to be in conflict with this Constitution."

If this motion prevails it will leave the Constitution as it is.

Mr. REVELL (Cook). As I understand the motion, the one to pass on the question without debate, I would like to have it fully understood. If this motion is adopted, it will kill the whole matter at once. I desire to have a few words to say on it. I would like to talk on the merits of the report as presented by the Committee on Bill of Rights at this time.

Mr. DAVIS (Cook). I withdraw my motion.

Mr. SUTHERLAND (Cook). I move the debate be closed.

Mr. REVELL (Cook). I hope the gentleman will withdraw his motion.

Mr. SUTHERLAND (Cook). I think, under the circumstances, the hour is late and the delegate from Cook has understood that there is an understanding it will be discussed thoroughly at a later time, when he will have full opportunity to discuss it if he sees fit. I think it will facilitate the question if the debate is closed.

(Motion adopted.)

CHAIRMAN RINAKER. The question is on the adoption of the section as read.

Mr. DAWES (Cook). I move the consideration of this section be postponed. I do not think I quite understand the situation in which we find ourselves now. For myself, I do not care to record my vote if it is to be understood that the vote means something.

The inference to be drawn from the statements made in connection with the request that this matter should not be debated now are final, and it comes up for second reading without prejudice as a result of the first vote. Now, we are just as well prepared to discuss this question now as at any later time, but on the matter of procedure, generally speaking, I object to putting things in a position to say after the first vote in this Convention that the matter comes up without prejudice. For my part, I would prefer not to vote than to vote if it amounts to nothing.

CHAIRMAN RINAKER. Under the rules, the debate is closed. As I understand, the only thing the committee can do is to vote on the motion.

Mr. ELTING (McDonough). This is an extraordinary procedure, and I cannot see—

CHAIRMAN RINAKER. The chair will be compelled to hold that under the vote taken that discussion is not now in order. The question is, Shall the section as read be now adopted? Those in favor will signify by saying Aye.

Mr. DAVIS (Cook). I ask for a division.

(Motion adopted.)

CHAIRMAN RINAKER. The question is on the adoption of Section 8.

Mr. SHUEY (Coles). I wish to offer a substitute for Section 8 of the committee report.

"No person shall be held to answer for a criminal offense unless on indictment of a grand jury, except in cases in which the punishment is by fine or imprisonment otherwise than in the penitentiary, in cases of impeachment, and in cases arising in the army and navy, or in the militia when in actual service in time of war or public danger. A full panel of the grand jury shall consist of fifteen persons, and in finding a bill of indictment at least eleven of the grand jury shall be present and agree to the finding."

Mr. SHUEY (Coles). You heard the reading of the section as reported by the Committee on Bill of Rights, and you have also heard the reading of the substitute that has been offered here. The substitute that has been offered is the same as the section of the present Constitution, except it leaves out "provided that the grand jury may be abolished by law in all cases," and adds to the old section that part of the committee report which

reads "a full panel of the grand jury shall consist of fifteen persons, and in finding a bill of indictment at least eleven of the grand jurors shall be present and agree to the finding."

As a member of the Bill of Rights Committee, perhaps some explanation will be in order as to my course in this matter; so I wish to say that when this section was adopted by the committee, I was not present and had nothing to say upon this question. I signed the report with the understanding that I might bring in a minority report if I wished to do so.

When I was elected a delegate to the Constitutional Convention and began to consider the matters that would come before this body I decided that I should favor no change in the Constitution of this State unless there was a good reason for the change, and now I am thoroughly convinced that there is no demand for such a change in the section of the present Constitution as proposed by the committee report.

As I went over my district, before and after the election, I heard one citizen say that this section ought to be changed, and that was a deputy official who said the grand jury ought to be abolished. This matter, gentlemen of the Convention of abolishing the grand jury was discussed thoroughly in the Constitutional Convention of 1870 by the ablest men in that convention on both sides, and after a thorough discussion of the subject it was determined that the most that should be done was to give the legislature the power to abolish the grand jury in case they saw fit to do so. That gentlemen, was fifty years ago, and during all this time it has remained the same. No change has been made. We have had the grand jury in all felony cases, and we have it today, by virtue of the constitutional provision and by the good judgment of the legislature.

I can see no reason for a change in this section except to reduce the grand jurors. There is no demand for it. As a member of the Bill of Rights Committee I have only heard one request for such change. The only demand for a change comes from one source, and that source is the States Attorneys' Association of the State of Illinois. It is apparent to every man who has been around a criminal court that the State's Attorneys proceed upon the theory that when a man is arrested he is guilty of the charge and should be put in the penitentiary as early as possible. That is not true as to all state's attorneys, but it is a feeling that is in the minds of a large percentage of the men who occupy that position.

And I believe this can be verified by many of the delegates to this convention. What will be the effect, gentlemen, of adopting the section as submitted by the committee report? What will be the effect of this change? The preliminary trial will be in all cases except in capital cases before the trial judge. When will it be? Perhaps the first two or three days of court. What influence is that going to have on the petit jury that is to try the defendant, knowing the court has heard testimony in the case and held the defendant to trial? What impression will it make on their minds as to what they ought to do in that particular case? How will the defendant feel? He most certainly would feel that he ought to have a change of venue from the court. Any attorney would in all probability advise him to take a change to some other court, believing that the court before whom he was being tried, had some feeling in the matter. And I want you to consider this section carefully when you come to vote on this substitute motion, and hope you will vote to protect the rights of the citizens of this great State by requiring a preliminary hearing before a grand jury of the county, before the defendant is compelled to be put upon trial in a felony case as provided by the present Constitution of this State.

I believe that in every felony case there should be a preliminary examination by a grand jury and an indictment returned before any citizen of this State can be required to be put upon trial for such an offense.

Mr. FIFER (McLean). The whole policy of American legislation has been to place the enforcement of the criminal law as nearly as may be in the hands of the people. It is a matter of history that when one man

or a small group of men initiate and prosecute criminal cases they become "man-eaters."

In the time of the reign of the Stuarts, Jeffery, whose name has become the synonym for oppression and outrage in the prosecution of criminal cases, held what is known in history as the court of the star chamber—a little chamber frescoed with stars; and it has come down to us through the centuries as a place of oppression, of outrage and cruelty.

The man himself when he began seemed to be fair-minded, but it was the perpetual enforcement of the criminal law that made him what he was, and so today when a lawyer feels that he has been outraged in the trial of his cases he goes out and denounces the proceedings as a star chamber proceeding and the profession knows well enough what that means.

Here in the City of Chicago the law provides that no criminal judge shall perpetually hold the Criminal Court of that city, for if he did he would become another Jeffery. And so it has been the policy of the American people to place the criminal law not only in trials, but in its initiation of proceedings, in the hands of the people, and they have been unwilling, at least here in Illinois, to allow any two men—the judge, if you please, and the States Attorney—to hold up the citizens and at their own sweet will and place them upon trial.

Let it be initiated by the people's grand jury. All my experience is to the effect that the grand jury is highly calculated not only to protect the innocent, but to search out and find the guilty. Many men in society who violate the law are so powerful and influential that no two men want to take the responsibility of bringing them to the bar of justice. Not so with the grand jury. It is their business, and they are selected from different sections of the county and are supposed to know where crime has been committed. A secrecy is thrown around their proceedings so it may not be known what witnesses come there and testify or how they vote on any given question where some powerful or influential individual is supposed to have violated the law.

Now, after having served as States Attorney of McLean county for eight years my experience leads me to believe that we ought not to meddle in any way with the grand jury as it now stands.

I tell you if you place the enforcement of the criminal law in the hands of one man or two men or a group of men that ultimately there would be so much fault found on behalf of the people that they would drive those men from the positions of influence and power which they hold; and I know of no better method than we now have, and that is the grand jury of the county.

The law calls for twenty-three. I think that might be reduced to save a little expense and trouble. It requires twelve, or a bare majority of the twenty-three, to find an indictment, so that we have always said that twenty-four men must pass on the guilt or innocence of every man who is sent to the penitentiary or before he is sent out of the court house with a verdict of not guilty.

Mr. JOHNSON (Bureau). I rise to speak against the substitute and for the report of the committee.

I make this statement so that it may be clear what my position is, as it may not be clear after I have talked. We are confronted this morning with a proposal which necessarily calls not only for our observation, and especially for our experience as lawyers, but for our experience as prosecutors. I most respectfully disagree with the position taken by the last speaker, the gentleman from McLean.

I stand here on this proposal representing the unfortunate men who have been bound over and will be bound over in the future by a justice of the peace or police magistrate under an order to enter into a recognizance which he cannot comply with, and so his only alternative is to lie in the jail or the calaboose, irrespective of its sanitary condition, for a period of frequently not less than three months, and in some instances six months,

before his case is acted upon by the august assembly which we are pleased to call the grand jury of twenty-three men in the State of Illinois.

What I say in this regard is based upon my own experience of eight years as prosecutor of my own county. Time and time again without number have I known of men bound over to await the action of the grand jury during the session of the court after the then presiding grand jury had finished its work and gone to their respective homes, and under the order of the police magistrate the defendant was required to lie in jail in default of entering into a recognizance.

Now, what I say here, men, perhaps will not apply to the City on the Lake by reason of the fact that they have many courts there in session, and perhaps there is a grand jury in session most of the time, but that it not true down State. The grand jury comes only at the sitting of the courts, and sometimes not then; if the business is not sufficient in volume to justify the convening of the grand jury it frequently happens that the presiding judge convenes no grand jury, and yet a man or two having been bound over has been awaiting the action of the grand jury in the county jail. And it is the experience, I think, of nearly every prosecutor that many such men who have thus been bound over are ready to plead guilty before a court. I have said something, men, when I make that statement. The proof is clear with the prosecutor, the prisoner knows that fact, the guilt is upon him, and he says, "I am ready to plead guilty and enter upon my service." Now, that is not an isolated case, and I think I can prove that by nearly every prosecutor who has occupied that position in Illinois in late years, unless it be the honorable gentleman from McLean county, the defendant standing ready to plead guilty to a charge preferred by the examining magistrate, a court in session ready to hear his plea, but no grand jury forthcoming. True, the presiding judge might convene a new grand jury, but, gentlemen, they do not do it. They do not do it, in my experience. And thus the unfortunate man lies in the calaboose and he gets no credit for the time his liberty is taken away from him there. And liberty deprived of, in a cell of that kind, men, is a thousand times more valuable to him in the sacrifice that he makes in that sort of a cell, than liberty deprived of where he spends his time in the penitentiary, and I can prove that statement by men who have gone through all of the cells of the calaboose and of the penitentiaries of Illinois. So, my first plea here is in behalf of that class of men.

You talk about trial, and speedy trial, before a jury of your peers, and that is a constitutional privilege, and yet we give lie to that doctrine time and time again in the State of Illinois, just because of the restriction in the Constitution which our fathers built in 1870.

My feelings have been wrought up time without number in behalf of that class of men who have come under my observation, Governor Fifer, ready to plead guilty and a judge ready to take the plea, and the constitutional provision staring them in the face which says "You may not plead guilty." It says no court shall have the power to take the plea of guilt to a charge of felony unless a grand jury shall have presented the indictment.

Now, what is there about the presentment of an indictment of a grand jury, and I say to you this too is based upon the experience of myself, that the prosecutor is a man, as he ought to be, in good standing, and one who has the abiding confidence of the citizens of his community, he can get what he will from that grand jury, and, Governor Fifer, you know that is true, that most of the indictments are really the indictments of the prosecutor where he has the confidence, the unstained confidence, as he ought to have, of the citizenry of his county who are eligible to service in the grand jury. So my plea is in behalf of that class of unfortunate man.

Now, it is said here that there may be a star chamber proceeding. Let us see about the star chamber proceeding which is now in vogue in Illinois by reason of the present constitutional restriction. A complaint is made before the justice of the peace in some remote part of the county who does not know the alphabet, hardly; he listens to public clamor; one witness

perhaps does the work, and the public clamor the balance. The whole complaint may be based upon suspicion, but the finger of scorn is pointed to the one who is already arrested, and the police magistrate binds him over to await the action of the grand jury, which may convene in three months or perhaps six months. And in default of entering into a recognizance, jail and jailory is his place. Is that a star chamber proceeding?

Mr. FIFER (McLean). I would like to ask the gentleman a question.

Mr. JOHNSON (Bureau). Yes.

Mr. FIFER (McLean). It now provides the State's attorney and court on examination can put the man on trial.

Mr. JOHNSON (Bureau). That is not the proposal introduced by this committee, necessarily.

Mr. FIFER (McLean). But it is in effect.

Mr. JOHNSON (Bureau). I don't grant the proposition it is in effect.

Mr. FIFER (McLean). Let me ask this: Suppose a man down State in some of the counties where they have no court very often, as soon as court is adjourned he is arrested by the justice of the peace and is bound over; he cannot give bail and he goes to jail. How on earth would you get him out until court convenes?

Mr. JOHNSON (Bureau). I am not talking about my theory, but on the proposal.

Mr. FIFER (McLean). Well, how would you get him out?

Mr. JOHNSON (Bureau). Easily.

Mr. FIFER (McLean). How?

Mr. JOHNSON (Bureau). He is bound over by the police magistrate, he lies in jail and he is without a friend. This says a prosecutor may present a statement to the presiding judge.

Mr. FIFER (McLean). The presiding judge?

Mr. JOHNSON (Bureau). Yes.

Mr. FIFER (McLean). In chambers?

Mr. JOHNSON (Bureau). It is not necessarily in chambers, but in open court it may be.

Mr. FIFER (McLean). There is a difference between judge and court. I understand this to be the court, the court and the State's attorney shall have a preliminary examination, and if they see fit they can put the defendant on trial. When you get the court, it is easy enough without going before the court to reassemble that same grand jury. There is a provision that the same grand jury which served the last term can be reassembled.

Mr. JOHNSON (Bureau). Yes.

Mr. FIFER (McLean). It would be perhaps less expensive, more expedient and more satisfactory to just reassemble the grand jury.

Mr. JOHNSON (Bureau). I am going to try to answer your question and I reserve the right to try to answer your argument.

Mr. FIFER (McLean). Well, answer my question.

Mr. JOHNSON (Bureau). Your question is not based on the proposal. Let me read it to you.

"No person shall be held to answer for a criminal offense unless on indictment of a grand jury, or in felonies, other than capital cases, on information filed by leave of court granted after a preliminary hearing showing probable cause for prosecution except in cases in which the punishment is by fine or imprisonment otherwise than in the penitentiary, in cases of impeachment, and in cases arising in the army and navy or in the militia when in actual service in time of war or public danger."

The preliminary hearing is conducted just as it is now, by the police magistrate, and your man is in jail.

Mr. FIFER (McLean). That is the first one, and then it provides for another.

Mr. JOHNSON (Bureau). I am talking to that proposition. My whole remarks have been addressed to that proposition, to that clause which gives to the man who is thus deprived of his liberty the right to step into a

tribunal and say, "I am guilty; give me my penalty and I will serve it." I am talking to that proposition.

The preliminary examination is held just as now, on the outside, the prosecutor comes in and on information he states the preliminary examination has been held and the man has been adjudged guilty on probable cause of having committed a felony and asks leave of this court to file an information in lieu of an indictment. Now, that is the proposition we are talking to.

Mr. FIFER (McLean). Let me ask you another question: The man is bound over by the police magistrate. On that showing the States Attorney, you say, is permitted to go before the court, not a judge, but before the court, and ask to put that man on trial?

Mr. JOHNSON (Bureau). Yes.

Mr. FIFER (McLean). On an information?

Mr. JOHNSON (Bureau). Yes.

Mr. FIFER (McLean). Well, a good many men who are in jail might object to that. They do not want two men to put them on trial. Some men might want it, but others might not want it. They might say, "I demand a grand jury."

Mr. JOHNSON (Bureau). In the usual cases the prosecutor would exercise the right where men are deprived of their liberty and are willing to plead guilty. That is my experience, Governor Fifer.

Mr. FIFER (McLean). It does not say "plead guilty," but they put them on trial.

Mr. JOHNSON (Bureau). They can put them on trial; the man is on trial when he pleads guilty.

Mr. FIFER (McLean). He waives the trial when he pleads guilty.

Mr. JOHNSON (Bureau). The answer to the argument made here is this: It is based on the assumption that you are depriving the man of his liberty, but the man is really being deprived of his trial, perhaps by an incompetent tribunal. You say the courts have the right to convene the grand jury. Sure they have, but they do not do it usually is the experience of prosecutors down State in Illinois, and the reason of it is they say that it costs too much to call in twenty-three men from the county—call them in for one or two isolated cases and then perhaps next week another case or two. They won't do it. They won't do it. They deprive the man by that process of reasoning of his speedy trial by an impartial jury of his peers. You stand for that just because our forefathers builded that sort of a landmark. I do not. I say to you that these men whom I am seeking here to represent without fee or reward, these men are frequently deprived of those rights which are as sacred to them as any right you or I maintain or hold to. It is too expensive.

Secondly, and briefly, it is this: Too expensive to convene a grand jury as often as is necessary. It is an unnecessary expense to put upon the taxpayers. That has but a small influence. I think it is of the least consequence, and yet it is a subject which ought to be given some attention in this Convention of delegates here.

By filing an information in a felony case against a man who has been bound over all of the injustice has been done by the committing magistrate that could be done by a capias issuing on an indictment of the grand jury. His liberty is taken away from him, whether it should or should not be. He is there in jail. His character is besmirched. His manhood is taken away, precisely as much as though a grand jury of twenty-three men would pass on his guilt or innocence and say he is guilty, and the rule is, men, as I have tried to stress it heretofore, the rule is that the prosecutor really directs the action of the ordinary grand jury in the several counties down State, provided, however, he has the confidence of such men as sit in the grand jury room.

Now, then, to sum up, it seems to me, I say the present Constitutional provision denies a man his right to a public, speedy trial made up of his peers, and that is not right. In addition to that, secondly, it is a revenue question. It is too expensive. Men do not wish to be brought from their

plow handles to sit and hear the testimony in a case which is perfectly clear and in a case where the defendant stands ready to plead guilty to the court. That is an unnecessary thing. I speak for the proposal and I am against the substitute.

Mr. FIFER (McLean). May I say a word? I know we have all been charmed by the eloquence of our friend from Bureau, but he seems to—I will not say dodge—but to go around the real question at issue. While under his talk he is protecting the man who is bound over by a police magistrate he loses sight of the men who do not want to be put on trial by the whim of a States Attorney which may send them to the penitentiary.

Now, as a public prosecutor I have long seen the difficulties and the hardships of placing a defendant when he could not give a bond after a preliminary examination in the jails of the county to await the convening of the court. Now, that is one of the hardships. There are many men who are ready to confess their guilt when they are bound over before the police magistrate or justice of the peace, and as soon as the indictment is returned from the grand jury they plead guilty. But there are many cases in my experience—I will say nearly a majority of the cases—where they are bound over by a justice of the peace where that action is ignored by the grand jury on a thorough investigation. The justice of the peace sometimes wants to save his costs, and he gets none if he finds the defendant not guilty.

Now, there are hardships even if this proposition applies down State. If a man is arrested before the justice of the peace and is bound over and cannot give bond, under this proposition he must remain in jail until the court convenes, and there is no other means of getting him out. The judge in the chambers cannot perform this duty, he cannot receive a plea of guilty. He can pass no sentence and no judgment against the man. The man must wait until the court convenes, and when the court convenes the statute provides for a grand jury.

Now, in protecting a man who is so unfortunate as to be unable to give bail when bound over, in protecting him you may inflict a very great hardship on the man who does not want to plead guilty, and he wants his guilt or innocence determined by a grand jury, because if he is once indicted then he must employ counsel, he must look after his witnesses. It is expensive, it involves a loss of time, and is consequently of expense to him. That is the man I speak for. I would not object if there was a provision here that any man who was bound over to the circuit court of his county and cannot give bond to provide that the judge in his chambers might receive on information a plea of guilty if he so desires, and make a declaration in writing to that effect, but I am unwilling to place in the power of the State's attorney by information that a court may, sitting in chambers, quietly, unobserved, put innocent men on trial which might result in conviction that would send them to a penitentiary. That is my position. I sympathize with what my friend from Bureau county says, and if something can be done here to permit men that are bound over and cannot give bail to admit their guilt, to go before the judge in chambers and do so, I don't object to it. I will vote for it. But forever and forever I am opposed to placing in the power of any one man to hold up the citizens on an infirmation, whether he desires it or not, and place him in a situation where he must employ counsel and do the necessary things for defense.

Mr. JOHNSON (Bureau). Wouldn't that proceeding in chambers smack of the star chamber proceeding very much?

Mr. FIFER (McLean). Very largely, and entirely so if the man was objecting, but he may have confessed his guilt before and never expect to deny his guilt. But the men who do not want to be brought into that kind of a star chamber proceeding, I say the law throws them certain safeguards and certain protection that you ought not to take away, and this Convention ought not to take away from him.

If this can be amended in any way, all right, yet in the course of my practice both as a prosecutor and defender, I have seen the hardships about which my friend speaks so eloquently and so forcibly, and I am willing now to avoid it if possible, but there I want to stop.

Mr. CORCORAN (Cook). How about the man that is indicted and after he has demanded trial three times his case is stricken off with leave to reinstate. Oughtn't he to be protected also?

Mr. FIFER (McLean). When there is an indictment returned in open court, then it is placed beyond the legislature and Constitutional Convention. The court administers the law. The court fixes and sets the case for trial; however, the statute provides that the criminal docket shall be the first on trial. The law has gone as far as it can.

Mr. CORCORAN (Cook). As a matter of practice, the State's attorney controls the cases, however?

Mr. FIFER (McLean). That depends on the State's attorney; some State's attorneys control, and that is the original theory of the law in the early days—the defendant had no right to counsel. In the early days the State's attorney appeared both for the defendant and the prosecution. It was his duty as a public official simply to see that justice was done. In the course of time that has been changed, and now the prosecutor appears nominally for one side, but if he is a man who is fit to hold the office, he will never allow a man about whose guilt there is serious doubt to be convicted.

Mr. CORCORAN (Cook). As a matter of practice that condition prevails, however?

Mr. FIFER (McLean). Of course, there is a chance of a miscarriage of justice. There is no doubt about that, and sometimes injustice is done in courts of justice, as every lawyer knows.

Mr. HAMILL (Cook). In his first speech on this subject, the distinguished delegate from McLean county appeals to history, showing how the grand jury has been a protection to the individual citizens against arbitrary power. Some wag has said that the study of history has one great value; it teaches you that an appeal to history has no value. If that is true, when your historical facts are correct, it is even more so when unhappily one falls into errors in history.

Baron Jeffery was born eight years after the star chamber was destroyed, and he therefore never sat in the star chamber. The star chamber was a court of civil and criminal jurisdiction, existing from the early days in England to 1640, when it was abolished by act of Parliament.

Jeffery was born in 1648. He got his reputation from sitting in what was known as the Bloody Assizes, in 1685, forty-five years after the star chamber was abolished.

Mr. FIFER (McLean). I think you are mistaken in your facts.

Mr. HAMILL (Cook). If you had studied it as recently as I have, you would know I was not, because I was just in the library and looked it up.

The grand jury was a wonderful invention to protect the individual against arbitrary power, but arbitrary power has never existed in this country. We have been so sensitive about the rights of the individual citizen that we have, I think, in many instances, unnecessarily continued the protections which grew up at an earlier day when they were necessary, and we have extended it to conditions to which they are wholly inapplicable, and to times when they are wholly unnecessary.

My eloquent friend from Bureau county has spoken persuasively for the poor man who is under arrest, and may I add a word for the poor public who are victims of crime? It has not been my fortune to have been practicing much in the criminal courts, and in what I say now I am not speaking so much as a lawyer but as a plain citizen who has himself been unfortunate in being the victim of crime.

As it is now, if you are so unfortunate as to have something stolen from you, and so unfortunate as to have the thief arrested, you are taken before the magistrate for a preliminary hearing. You and your friends and

witnesses sit about and you are called again for a continuance, and if you only have one continuance you are fortunate. If the defendant is bound over you are summoned to the grand jury, and in the outer room of the grand jury you kick your heels about from one hour to one week. If the defendant is indicted, then you are summoned to the criminal court and there you are called no one knows ordinarily how many times, until you feel as though you wished you were in the place of the accused. You are the one that is being punished for the reason you did not take good enough care of your property to keep it from being stolen.

A part of that, it seems to me, can be spared the citizens with entire safety to the individual who is accused. Before he can be arrested there must be a sworn complaint; somebody must be willing to swear that he has reasonable cause to believe that this particular individual committed this particular offense. Then there must be a hearing, where he is entitled to be represented by counsel and where he is entitled to take the stand if he chooses and where there must be a judicial determination that there is probable cause to believe that a crime has been committed and that this particular defendant has committed that particular crime; then an officer sworn to perform his duty must present an information. It would seem to me, gentlemen of the Convention, that the man suspected of crime was sufficiently protected from being imposed on, and those three steps must be taken before he can be held to trial. It seems to me unnecessary in the great majority of offenses that the grand jury inquiry should be interposed between the individual and the day of his trial. Aren't we too tender of the rights of the individual suspected of crime? Aren't we in danger of encumbering or continuing to encumber further the criminal court with machinery which had its value in its time, but has long outgrown its value? I am against the amendment and in favor of the committee report.

Mr. McEWEN (Cook). A couple of weeks ago I had the doubtful pleasure of appearing before a club of the church in my neighborhood to explain to them something of the work of the Constitutional Convention. I told them that we hoped to so improve the judiciary machinery in Cook county that at least the man who was found guilty would suffer as much as the victim of the crime—at least we would try to make it fifty-fifty.

The judicial department has under consideration with regard to the practice of criminal law in Cook county a tentative draft, in which there may be a change, along the lines of this proposed Section 8 of the committee report.

I want to call your attention to what is proposed in the judicial department's report, so that you may consider that in connection with this and see the relation of one to the other. It is reported that the present municipal court of Cook county be consolidated with the criminal court of Cook county and that jurisdiction extend to the county borders. That will give to the municipal court, which will be designated the district court, that will give to it the subject of preliminary hearings and also final trial to the one court. It is also proposed, in substance, what is proposed by this section. May I read from the tentative draft:

"Trials may be had in either division on criminal or quasi-criminal charges. It being contemplated that there would be a district court division and superior criminal court jurisdiction in Cook county, upon information or complaint, without indictment, in the following cases," etc.

That, I take it, in substance is what is proposed here by Section 8 of the Committee on Bill of Rights' report. The delegate from Cook county, Mr. Hamill, has told you something of the way the prosecutions for crime work in Chicago. We have in a city of over 3,000,000 people every morning twelve or fifteen of the so-called police courts, presided over by municipal court judges. There there will be heard many cases of all sorts of crime and all sorts of violations of ordinances, burglaries, robberies and homicides. There will be heard cases of men caught in the act red-handed. They will come up at a preliminary hearing charged with felony. The magistrate hears the evidence and holds the defendant over and he pro-

ceeds, if he is a man of the criminal classes, to procure bail. A man who belongs to the criminal organization of a great city never has any difficulty in getting bondsmen. He gives his bail either there or later after he has been sent to the county jail, and sometimes he procures a bondsman of the professional type, who rarely ever responds to a forfeited bond. If the case be plain against him he gets all of the delay incident to the holding over, then there is a hearing before a grand jury. Now, a grand jury is almost continually in session in Cook county and they are called to sit usually for a certain term. The States Attorney is the adviser of that grand jury. It is not the grand jury of the ancient common law, where they called twenty-three men from the county with the idea of getting at conditions in the county and where they indicted upon the knowledge of a particular grand juror regarding crimes, but it is a grand jury of twenty-three men out of some 3,000,000 people who, knowing little or nothing of any specific crime—in fact, it is a rare thing, and I never heard of any indictment in Cook county based on the knowledge of a grand juror—so that grand jury necessarily leans on the States Attorney for advice regarding crime and relies on the States Attorney regarding the matter of the sufficiency of the evidence. Seven years of my life have been spent around the criminal court of Cook county. I have served in the capacity of Assistant States Attorney, looking after the grand jury and attending its sessions. Theoretically the States or Assistant States Attorney is not supposed to be present at the taking of the vote. He may be excluded by the grand jury, but rarely is he ever excluded in Chicago. In Chicago he is in charge; he calls the witnesses; he conducts the examination of the witnesses, and when the case is presented almost always the foreman of the grand jury turns to the States Attorney and asks him what he thinks of the case, whereupon the States Attorney tells him that the law is so and so, and that he thinks that there is probable cause for placing him on trial, or he may state he doubts whether the States Attorney can secure a conviction.

In my experience, where I have personally been before the grand jury I have never known the grand jury to fail to indict or to refuse to indict when so advised by the States Attorney. Not very often, but in rare instances, the grand jury will run counter to the wishes of the States Attorney of Cook county, but it don't happen once in four years.

The grand jury, after all, its principal use is as a colorable institution of fairness. It is a cover for the States Attorney, behind which he hides and behind which he evades responsibility for the action he really should be responsible for. Then the case comes on; it is placed on the call for trial; the defendant may want a continuance or the States Attorney may not be ready, and we have had fifteen or twenty continuances shown in a case before it comes to trial, with all the possibilities of bond jumping and of settling with witnesses and of getting them out of the county and every thing that delay bring to a defense. I never have seen but one case where delay helped the State, and in the great multitude of cases the delay always weakens the State. It weakens the testimony of the witnesses; it weakens their memory, or they become more forgiving and lenient. The interest of the public seems to have dropped to nothing, and as a result the jurors find ready excuses.

When a man goes over to the county jail in Cook county there are about fifteen attorneys usually admitted to the bar who prey on that jail; there are men who will go in that jail with a list of everybody brought in in the morning, and they will call down in the course of the day; they will call down to the attorneys' cage, as they call it, where they interview the prisoners, every man that looks like a prospect, and there those attorneys will tell those men every sort of a lie about being sent in by their friends, until they get their case, and they will then delude them with the idea that they have a defense, or perhaps furnish them with witnesses and give them a defense that the prisoners never thought of, and the result is in Cook county, which is probably characteristic of the big cities, delays not only weaken the case but make the prisoner a victim of being preyed upon by this class of so-called lawyers that work the jails. Now, it occurred

to the judiciary department that if we could take away some of that cumbersome machinery and still be fair to a defendant, we would do so. The defendant is brought before the district court for preliminary hearing; the witnesses are all there; it may be a case of taking a man in the commission of the act; it may be a perfectly plain case. There is a preliminary hearing. Now, why should that man have the benefit of an indictment? If there is a magistrate there in open court, subject to the publicity which the press gives to cases, and gives especially to sensational cases, wherein is there any objection to that procedure? What more can he get from a grand jury? There are the witnesses against him. He is told the nature of the case. There is leave given to the State's attorney to file an information in this case. Information is filed, we will say, that same day, and then transferred to another court or another division of the court, a trial division. They set a hearing at an early day. Why isn't that man protected? He can say to the judge, "I need a week or two weeks or three weeks, to get witnesses." Time is the easiest thing in the world for a defendant to procure in the trial of a case in Chicago, because there is always a crush of business, and if you do not try this case there is immediately another one behind it to try. The judge does not care which case he tries. There is no motive of despatch of business which is going to shut him off from any defense. Well, the case is set, and we will say he is innocent; then he usually wants a trial right away. If he is guilty and the evidence is overwhelming, he very likely says, "I will take my medicine now and get my time running." He does not see the delays advanced by the lawyers of the defense, of beyond reasonable doubt and unsoundness of mind, drunkenness, inability to have the intent required by the law. He does not know about all of those defenses until he meets these gentlemen in the lawyers' cage. If we could eliminate all of those successive steps, and at the same time make a direct contact between these men and the law and give them the protection, at the same time a speedy trial and dispose of the cases, we would be able probably many times to multiply the efficiency of the administration of justice. Many and many a guilty man escapes through the working of the machinery of delay. Every lawyer in Chicago knows how to work it. The lawyer can always take advantage of any technicality in any particular organization or method of prosecution, so we all know the system from both sides.

Mr. FIFER (McLean). Whether a man is indicted by a grand jury or brought to the bar on information, wouldn't the same means be open to him for delays in either case?

Mr. McEWEN (Cook). I don't think so.

Mr. FIFER (McLean). Wherein would it differ?

Mr. McEWEN (Cook). In the first place, if you have to wait for an indictment in Chicago, you will wait for two to four weeks, probably, and you will be thrown to the second term, so there is an inevitable delay of the machinery, not based on the will of anybody.

Mr. FIFER (McLean). I understand from your tentative draft there, the provision covering this question, you would not put a man on trial on an information unless in writing he waived the indictment?

Mr. McEWEN (Cook). We have such a provision in the case of felony.

Mr. FIFER (McLean). As to that, I don't object.

Mr. McEWEN (Cook). And also require him to go to trial if he has a preliminary hearing.

Mr. FIFER (McLean). You have intimated here that State's attorneys sometimes might abuse their power before the grand jury.

Mr. McEWEN (Cook). Well, they take advantage of their position.

Mr. FIFER (McLean). Wouldn't the same State's attorney, if he had the right under the law to file an information against a man he did not like and whom he wished to humiliate, wouldn't he have great power to do that even than he would before the grand jury?

Mr. McEWEN (Cook). He might have the same power, but he would have to act after a preliminary hearing and there had been an open public

trial, a preliminary trial, and where there would be a judge to pass on the question of whether there would be evidence for leave for a subsequent information. One of the greatest complaints of the grand jury is that the State's attorney may take in a complaint before the grand jury and secure an indictment and like a clap of thunder out of a clear sky it falls on the defendant.

Mr. FIFER (McLean). Is it your position you would abolish the grand jury entirely?

Mr. McEWEN (Cook). No.

Mr. FIFER (McLean). You would not abolish it?

Mr. McEWEN (Cook). No, sir.

Mr. FIFER (McLean). Would it suit you if we passed a provision here where a person is bound over to a circuit court or criminal court and waives indictment in writing that he could be put on trial, but where a man demands, a defendant demands the right of hearing of his case that the grand jury would have to have such a hearing?

Mr. McEWEN (Cook). I would think if he had the preliminary hearing he ought not to have as a matter of right the indictment by the grand jury.

Under the provisions of Section 8 of the report and under our provisions, if the judge said, "I think there should be a trial in this case" after he had a preliminary hearing that would not take away any of the defendant's rights.

Mr. FIFER (McLean). Have a preliminary hearing before the court?

Mr. McEWEN (Cook). Yes.

Mr. FIFER (McLean). That would be right in the hearing of the petit jury who would try the case finally.

Mr. McEWEN (Cook). That would not be in Chicago at all.

Mr. FIFER (McLean). It might be down State, most likely.

Mr. McEWEN (Cook). I prefaced my remarks, I thought I prefaced my remarks, at least, that we had composed this in regard to the municipal court and consolidated it with the criminal court for Cook county. We don't know if that provision of it would apply to down State. In fact, the Cook county end of it worked independently.

Mr. FIFER (McLean). You would leave it within the discretion of the States Attorneys of this State to bring to trial on cases of felony anybody whom he might see fit to charge on an information, would you?

Mr. McEWEN (Cook). If there had been a preliminary hearing before a magistrate and after leave of the court had been granted to the States Attorney to file an information. With those safeguards.

Mr. FIFER (McLean). That would be, then, three trials—one before the examining magistrate, one conducted before the court, to let the court say whether he ought to be tried, and then if he was to be tried on an indictment he would have to have a third trial?

Mr. McEWEN (Cook). In Chicago it would not contemplate the three trials. The magistrate who heard the preliminary hearing would be a judge of the court that would try him. It would not be the same.

Mr. FIFER (McLean). You are aware of the fact that the law is in Illinois that the magistrate will bind over, it is his duty to bind over. He don't have to find the parties guilty. That is not the question; but whether there is a probability of the guilt. He don't decide the guilt; he stops far short of a preponderance of the evidence. Don't you think that would be a dangerous thing to have in one hand—the preliminary hearing and the trial?

Mr. McEWEN (Cook). No, I believe in holding a man responsible for what he does. The States Attorney can besmirch his enemy politically or otherwise and get behind the grand jury and escape his responsibility. That has been done many, many times.

Mr. FIFER (McLean). Don't you know that the States Attorney violates his oath of office when he advises the grand jury as to facts; that he must only advise them as to the law?

Mr. McEWEN (Cook). Well, if you were before a grand jury and the foreman would say to you, "We are puzzled with this case," you would understand that he is calling on you for a statement on the facts; and suppose the States Attorney said, "I doubt whether we could secure a conviction on the evidence," would you say the States Attorney was violating his oath of office?

Mr. FIFER (McLean). Well, I have always sternly refused to give advice on questions of fact. That is solely within the province of the grand jury.

Mr. McEWEN (Cook). Well, down in McLean county, where you only have one criminal every three or four years, and where we have them by the hundreds every day, you could pursue a policy different than we do in Chicago, but I think that you would fall into a policy of despatch in getting rid of the business as we do up there if you were there. I think this is a great step forward. If I were to be asked of any one thing which was of the most importance to Cook county before this Constitutional Convention I would say the criminal procedure. Anything that would shorten up the delay, to have the law applied more vigorously would be of greater value to Cook county than any one thing that could be done. We can get along with our taxes and get along with our representation and put up with a whole lot of evils, but we cannot let the criminal classes prey upon the citizens, especially the law-abiding citizens who are entitled to every consideration, and that is why we say we want some sort of improvement.

The great city affords a field for the development of the criminal. A pickpocket would starve to death in McLean county, not because there is no wealth there, but because he would not have the opportunity to get at the pockets of the people, but on a crowded Halsted street car or State street car, a pickpocket can make his living with the skillfulness with which he works. Many sources of crime develop in Chicago that do not develop elsewhere, because of the great mass of humanity there, and the opportunity for escaping prosecution for their offenses. So it is a serious question. If every man in McLean county escaped punishment it would not matter so much; you would still get along and people would respect the law. You cannot do that in Chicago; you must punish and particularly punish the habitual criminal, the man who is making a business of preying on the people of the State. So I think this is a great step forward, and Section 7 is consistent and in line with what we have asked in the judicial department for Chicago, and I hope whatever you think you ought to do yourselves down State you will take into consideration Chicago and its needs and see if you cannot adopt some process of criminal action there that will give Chicago relief. I am for Section 8 and against the substitute offered by the gentleman from Coles.

Mr. DAVIS (Cook). May I move at this time that we take a recess until two o'clock?

Motion prevailed and the Committee of the Whole took a recess until 2:00 o'clock p. m. of the same day.

2:00 O'CLOCK P.-M.

The Committee of the Whole met pursuant to recess.

Chairman Rinaker, presiding.

Mr. MORRIS (Cook). I paid some attention to the somewhat lengthy remarks of those who are opposed to the adoption of the substitute, and I cannot fully lend my assent to many of the things suggested by the ex-State's Attorneys who have opposed this substitute.

After all, hard cases make hard laws, and we cannot put into the Constitution of this State a provision solely for the protection of the guilty or for the protection of some individual who may suffer a hardship by reason of his inability to plead guilty quickly and be sent to a reformatory institution or to the State penitentiary.

I do not fully agree with the learned gentleman from Cook county whose experience is vast and large, as to the operation of the criminal laws in Cook county.

Back in 1878 and 1879 when the State's Attorney of Cook county was the individual who prosecuted most of the cases, things were run substantially there as down in the country. Now, the office of the State's Attorney of Cook county has gradually grown from 1879 to the present, to be rather a business office, where the State's Attorney himself seldom appears in court except through his army of assistants. To enable the State's Attorney of even Cook county to exercise the great power and authority that this measure would do, would be to make him or any other man absolutely too powerful. To suggest for a moment that it is proper, because he would be obliged to submit his evidence to some one of the various judges holding a criminal court, and then that judge would determine whether or not an information ought to be filed, is almost like begging the question, and it is almost like confessing a want of information as to the general makeup of the judiciary of Cook county.

I am not inconsistent at all when I say to this Convention that the great majority of the successful lawyers at the Chicago Bar are what might be termed specialists. The necessity of the occasion largely makes them specialists. The country lawyer, if I understand it at all, is a general practitioner. He is the old family physician of the law, who can try a criminal case, a chancery lawsuit, or go before a Justice of the Peace and conduct his case just as well in any one of the various branches of the court as he can in any particular line, but the very moment a man gets to the City of Chicago he is almost driven to adopt or select some special line. Therefore we elect frequently many splendid men—and I take off my hat to no man in general reference for the judiciary—but men put on the bench go there with the knowledge that they have acquired as practitioners; oftentimes we put on the bench men, I need not repeat to the lawyers from Chicago, that they rotate the judges in that city, over to the criminal court from circuit and superior, who have never heard a criminal case tried. They are guided by the State's Attorney and Assistant State's Attorneys, they look to them to tell them what is right and what is wrong, and they haven't the slightest idea in the world as to what is required in a criminal case. So it would be absolutely no protection whatever to even suggest before an information can be filed and a man put on trial in a felony case, a judge of the criminal court would have to pass upon it. He would do exactly as the State's attorney directed him and told him to do, and instead of being obliged to convince twelve or a majority of the grand jury, he is simply obliged to tell the judge of the circuit court, "I think this is enough," and then you have prejudiced the cause of the defendant at the beginning. The judge determines, not in the presence of the jury, I admit, but he determines that there is a reasonable and probable cause, and it is likely and probable that an offense has been committed, and it is likely and probable that the defendant committed it, and therefore the State's Attorney is given leave to file the information. What is the further result? He files the information, and human nature is just the same, whether it is in a State's Attorney or an ordinary lawyer. He becomes interested in the outcome of that suit. We know informations may be amended, something happens to that information; he says, "All right, I will dismiss that, or will amend it." The court says, "Yes, these informations may be amended, under the rules;" and finally when the case is ultimately determined, the man is actually being tried for an offense that really the circuit judge dreamed filing an information about. Then we get into the trial, and you go right on before him or another judge, who says, "Well, Judge So-and-so permitted this information to be filed, he necessarily determined it was all right, I don't think I will sit in review of his decision."

Now, you have to think of the innocent man as well as the guilty man. I understand it is a hardship oftentimes for one who is guilty to await the coming of the grand jury, the return of the indictment and all that, but

what the learned gentleman from McLean has said is also true, what of the man who does not want to be tried that way. If we want to protect the citizens of this State, we want to take away from the State's Attorney the power that this proposed amendment would confer on him. It is giving altogether too much authority to the State's Attorney to enable him to turn his office into a powerful machinery whereby he can crush his opponents and crush his enemies.

There is no theory to that thing. It is actual practice. Any man who has spent twenty-five or thirty or forty years in the practice in the criminal court of Cook county knows what this powerful machinery of the State's Attorney of Cook county would make out of this provision. I don't think we are sitting here to build up that sort of machine whereby innocence may be taken away from men and power crushed out of men by the State's Attorney. It should not be done.

A provision might be reasonably inserted, in my judgment, whereby upon written consent a man might plead guilty to an information, and that would answer the objection so eloquently presented here by one of the gentlemen who opposes the substitute. But when you suggest in all cases of this kind an information may be filed, you simply build up a powerful machinery by which the innocent may be crushed, and by which the office of the State's Attorney of a great metropolitan city or county can be made the most terribly effective engine for the purpose of oppression that anybody ever dreamed or heard of.

I say that as the result of forty-two years at the Chicago Bar, and largely, not wholly, not exclusively so, but largely in the defense of men charged with crime, and that were not guilty in most instances.

One further thought, and then I am through. The protection, as I have intimated, that they seek to throw around the right to file an information is really a hurt and an injury, because when you begin the trial of a case before a judge he ought to have no preconceived notions at all, and you cannot wipe out of a man's mind impressions that are gathered from the hearing of testimony at a preliminary examination. State's Attorneys are human, they file the information before Judge A and he rules with them; then the State's Attorney deliberately sets your case before that particular judge, and he does it almost with malice aforethought, knowing that he has had an expression of opinion from the judge, so that instead of the fact that the judge must pass upon it being a help, it is a hindrance to a fair trial, and you simply provide for the taking of numerous changes of venue. There is always a scramble in the criminal court of Cook county as to what judge you are going to get your case placed before.

You must take this thing fairly and honestly. If the gentlemen down State do not understand, the gentlemen that practice at the Chicago Bar do, and know that much depends on the sort of judge you are placed before; first, has he the nerve to do the right thing, in the face of public clamor? Secondly, has he the ability and learning to know the right thing after having the nerve to do it? Now, most lawyers win or lose their cases by the judge before whom the case is set, and the State's Attorney is hunting for exactly the same sort of individual. He wants a public prosecutor on the bench, and if they keep a judge long enough in the criminal court, he gets to be a prosecutor on the bench, and you do not get what the law declares you should get, a fair trial, and you don't when you make the judge examining magistrate, because you prejudice him every time he holds the man over or decides that there is reasonable or probable cause for the State's Attorney to file an information and put the man on trial.

You may say the State's Attorney runs the grand jury. He does in many instances, but not all of the time, he does not run the grand jury half as much as he does judges of the court who know nothing about criminal law.

I have seen a judge in the criminal court at his first sitting in a criminal court when the grand jury was bringing in their report, say, "What are those men coming in here for? I will stop them, they cannot come in here interrupting the business of the court." He did not know enough about the

court to know that they had to return the indictments in open court, and it took his clerk and two or three of the older clerks to hush him up. Yet he is trying cases today on the criminal bench and is a first-class judge. He had practiced only in civil cases and never had any experience in the criminal court and was guided absolutely and solely by what some young unexperienced State's Attorney told him. So if you think to allow the State's Attorney to put a man on trial every time he thinks something has happened, or if he fails in doing that, he will file another information, and it will immediately raise the question of *res adjudicata* or where once in jeopardy is not a bar, and a dozen of the other questions will arise.

I think we had better stick to the old way. It is all right to have fifteen men on the grand jury, it cuts down the expense, I have no objection to that. I think the old way is good enough. It is fairly successful, and as successful as the citizens of Cook County can make it even up there, but after all we have to make laws for the whole State of Illinois, and not solely or exclusively all the time for Cook county.

Mr. GREEN (Champaign). I am about to offer an amendment, I presented it to the delegate who offered the substitute proposal, and discussed it with the other members of the Convention with a view of meeting some of these comments made in reference to the substitute proposal, and in the hope that we can reach a common ground by which we can preserve what to those who favor this substitute we believe is a very vital liberty to be preserved in the Bill of Rights for the people, and I offer as an amendment to the substitute offered by the gentleman from Coles, Mr. Shuey, that the proposal be modified to read as follows: "No person shall be held to answer for a criminal offense unless on indictment of a grand jury except upon written waiver of indictment being filed by the defendant, and except in cases in which the punishment is by fine or by imprisonment otherwise than in the penitentiary, in case of impeachment, and in cases arising in the army and navy, or in the militia when in actual service in time of war or public danger, a full panel of the grand jury shall consist of fifteen persons and in finding a bill of indictment at least eleven of the grand jury shall be present and agree to the finding."

Now, the only amendment that makes in the substitute offered by the gentleman from Coles is inserting the language "except upon written waiver of indictment being filed by the defendant" and also inserting in the last sentence of the present provision found in the Bill of Rights "provided the grand jury may be abolished by law in any and all cases." In other words, it simply amends the substitute in those two parts and makes it practically the same as the old Constitution in the last sentence; so that we know exactly what we are considering, we are considering the section now the same as the old Constitution with these additions, first that the grand jury may consist of fifteen members and eleven may agree on an indictment; second that the defendant may, in writing, waive the presentation of an indictment, and in those two respects it differs from the present Constitution.

I am decidedly in favor of retaining the grand jury system, and I do not think it would serve any good purpose to recite difficulties or experiences that we have had that give reason to find fault with the system. It must never happen in Illinois that we get too busy with other things or that it ever comes too expensive, so that all the necessary and reasonable safeguards, which are the products of centuries of experience, shall be abolished in order to accommodate our convenience, and that is all there is to these arguments to change the grand jury system. It may be a burden to you to wait as a prosecuting witness upon a trial. It may be that there are times when undue confinement is visited upon a defendant. It will always be true that the system cannot be perfect, but the great purpose of the criminal law is now to punish the offender, but society and government is of the first importance in considering any measure affecting the administration of the criminal law. The dignity of the security afforded every man to know that no court, no officer of the law except a jury of his countrymen can put

him on trial charged with a felony is a real liberty. It is destroyed when the grand jury system is abolished.

It may be more cumbersome, it may be slower than some more expeditious or less expensive way that we might devise, but the majesty of the law and the dignity of the procedure and the very ceremonies attendant upon the filing in open court by the grand jury of a charge which puts a man on trial for his life or liberty is a fundamental requisite in my judgment to the preservation of the liberties of the people. It came about after a long, weary struggle by the masses to be protected in their opportunity to have sitting in judgement upon them only a jury of their peers. And the delegate from McLean this morning in my judgment told the whole story when he called attention to the fact that the criminal law has been administered with the high idea and single standard that the jury is the judge of the law and fact in criminal cases, no matter what kind of legislation may be passed by the General Assembly. I hope it will always be the law in the State of Illinois, as it has been in the past; that it is the province of the jury to administer punishment and put a man on trial, shall be permitted to stay in the enforcement of your law, because if you take that from the citizens, that responsibility, you will have weakened the structure of society, which after all, is what makes a government. I would not insert the provision that the General Assembly can abolish the grand jury, if I consulted my own personal opinion, but I am willing to offer it in this case for this reason, and it is in my judgment a powerful argument against the change: for fifty years it has been in the Constitution and there has never been any legislation that has changed this provision requiring the presentation of indictments to put a man on trial for felony, and I do not believe it will ever be exercised, but the fact it has been safe for fifty years, leaving the authority there for the legislature to act if conditions ever arise to make it necessary, it can be done. Permit me to say, however, it will be safe leaving it there again, but I shall certainly oppose any effort in the legislature to change it under present conditions. I cannot now conceive how anyone can ever favor abolishing the grand jury system. It seems to me the whole argument against the change rests upon an idea that the communities in which they live have, either from indifference or indolence or lack of attention to the subject matter, failed to secure the kind of enforcement of law that they believe their community needs. But any community will be just as good as the people living in it, and if some of the conditions complained of in Chicago are as bad as they are said to be, their responsibility is on the gentlemen who tell the story, along with a few million of their fellow-citizens who have not seen fit to see that the law is properly administered, but we are here to make basic laws for Illinois, and to state a principle, and I believe it would not be a step forward, but a step backward, into the centuries, to take away this bulwark of American liberty, that man can only be put on trial for felony by an indictment returned by a jury of his peers.

Mr. TRAUTMANN (St. Clair). Don't you also make a change in the last sentence where you have added those words, by the word "any"?

Mr. GREEN (Champaign). You are correct. At the consultation with the chairman of this committee, the present section reads "in all cases." It was thought there might be some modification in cases other than felony. It was thought it might be wise sometime to change the reading "in other cases," so the word "any" is inserted instead of "all."

Mr. MILLER (Cook). It seems to me, I may be wrong, of course, the gentleman who last spoke is slightly inconsistent. We have heard a great deal about the jury being the bulwark of the American liberties and our liberties would go to the demnition bow-wows if we did not have the grand jury sitting on the job all of the time, and he said he proposed that provision because it had been in the Constitution for the last fifty years. Of course it has not been; the provision which has been in the Constitution for the last fifty years is "provided, the grand jury may be abolished by law in all cases." The gentleman said the legislature has not seen fit to take advantage of that privilege. As I understand the fact, the reason

that they have not seen fit to take advantage of that privilege is because this language, as construed by the Attorney General, means that the legislature may not abolish the grand jury in any case unless it abolishes the grand jury in all cases including capital offenses. My information is that the legislature had before it once a bill providing for the abolishment of the grand jury in certain cases, and it refrained from going on because the opinion of the Attorney General was to the effect that the legislature had no right to abolish the grand jury in any case unless it abolished it in all, and that was the reason, as I understand it, for not making any change.

Now, may I ask the chairman of the committee, the proposal as embodied in Section 8 is, "No person shall be held to answer for a criminal offense, unless on indictment of a grand jury, or, in felonies other than capital cases, on information filed by leave of court granted after a preliminary hearing showing probable cause for prosecution, except in cases in which the punishment is by fine or imprisonment otherwise than in the penitentiary."

Now, isn't it the understanding of your committee that this language means that the leave of court shall be granted only after a preliminary hearing, such as is now held before the committing magistrate?

CHAIRMAN RINAKER. I so understood it. Mr. Corlett of the subcommittee, more carefully considered the language.

Mr. MILLER (Cook). I didn't understand your answer.

CHAIRMAN RINAKER. By leave of court granted after a preliminary hearing, that that should be such a preliminary hearing as is now had before a committing magistrate.

Mr. MILLER (Cook). Well, the only hearing should be before the court granting leave, in other words it should be a public hearing where both sides are present and can put in evidence.

CHAIRMAN RINAKER. Yes, you are correct.

Mr. MILLER (Cook). A public hearing?

CHAIRMAN RINAKER. Yes.

Mr. MILLER (Cook). The amendment put in by the gentleman from Champaign would permit the legislature to abolish the grand jury in capital cases or any other cases, without abolishing it altogether. This proposition, as offered by the committee, does not give the legislature the right to abolish the grand jury in capital cases, and it therefore seems to me this section presented by the committee is more of a protection and more powerful as a preservation of the right of a grand jury, or the right to a grand jury, than the amendment presented by the gentleman from Champaign.

Mr. GREEN (Champaign). May I suggest that you add then, "except capital cases"?

Mr. MILLER (Cook). No, I would not suggest that at all.

Mr. GREEN (Champaign). I have no objection to it.

Mr. MILLER (Cook). I suggest you leave it as it is at this time.

Mr. GREEN (Champaign). That is what we are doing.

Mr. MILLER (Cook). No, that is not what you are doing, this is what you are doing: You are presenting an argument against interfering with the province of the grand jury, and then presenting an amendment which leaves the General Assembly power to do anything it sees fit with the grand jury. In other words, why put anything in the Constitution about a grand jury? If that amendment is put in, it leaves it absolutely to the legislature, and you might as well wipe out any reference whatsoever to the grand jury.

Having gotten that clear explanation as to what that section means, presented by the committee, let us look at this for a moment; of course in the first place we want to protect the accused, that is perhaps just as important as it is to protect the public, if not more so. I am willing to admit it is just as important to protect him as it is to protect the public, and as far as I am concerned, I am willing that he should have just as much protection. But what is the law now? Why it is that in nearly all cases

there must be (unless the grand jury takes the matter up without a preliminary hearing which certainly is not unusual, certainly not in Cook county,) there must be three steps; the preliminary hearing before the committing magistrate, next, sometime thereafter, indictment by a grand jury, and third, the trial. Three times when the witnesses must appear, three times when the prosecutor must appear. If one of these three times can with safety be dispensed with, surely that is in the interest of efficiency, of economy and of the successful operation of the criminal law where a man is guilty, and of the due administration of justice. Everybody knows it is hard to get witnesses to come time and time again. Everybody knows that delays in criminal trials are destructive of the conviction even of the guilty, and therefore if we can abolish one of these three steps without danger, of course we ought to do it.

Let us look at the question a minute as to whether we can abolish one of the three without danger to the liberties of the accused. Something has been said here about the danger of permitting the State's Attorney and the court to get together to put a man on trial on a criminal charge without the hearing of the grand jury, and something has been said about the malicious abuse of his office by the State's Attorney—and of course in experience and observation of these matters I readily yield to the superior knowledge of the gentleman from Cook, Mr. Morris, who has had a large experience in the criminal court—but this appears to me, gentlemen, to be absolutely unanswerable. It is said, and I have no doubt it is true, in certain instances it is true the State's Attorney has abused his power, and caused to be indicted and prosecuted personal enemies against whom he has had a grudge. However that has been done, not because of the lack of a grand jury, but with a grand jury.

Let us suppose that a State's Attorney wishes to institute a prosecution solely for political or personal reasons, having no good or legal grounds to believe he was guilty, where would he stand the best show of being successful, in putting the man upon trial for his life or liberty; would it be in a secret star chamber proceeding before a grand jury where as we have heard here that the grand jury usually follows the advice of the State's Attorney who was in the room at the time the indictment is voted on, purely an ex parte hearing, in almost every case, or would he have a better show and opportunity to put over a thing of that kind in a hearing before open court where both sides are heard, arguments are made, and everything is open?

Now, you have all, I take it, known of cases of this kind where a man, knowing a charge was to be made against him before the grand jury, has gone to the State's Attorney and asked permission to produce his evidence before the grand jury, upon the plea that a great wrong is going to be done him, and if it is permitted that he produce his evidence it will be shown conclusively that he is not guilty.

Now, I have known one instance of that kind having occurred in Cook county, where the defendant was given the privilege of going before the grand jury with his witnesses, and as a result there was no indictment, and that matter occurred within two years, and yet that is the rarest thing in the world to happen. Of course it would not have happened if the State's Attorney was bent upon wreaking his vengeance upon some personal or political enemy. The same thing exactly is pending right now in the grand jury sitting in the City of New York, in the state grand jury, where there seems to be a conspiracy on the part of certain politicians in the state who intended to have a special grand jury to indict certain other persons who are their personal and political enemies, and the other persons have succeeded in getting the promise of going before the grand jury with their witnesses, and the probabilities are when that occurs there will be no indictments. Yet those are the only two instances I have ever known or heard of, probably the rest of you know of more, where the defendant was permitted to go before the grand jury. We have known of instances in this State, gentlemen, where it appears, I don't mean to charge wrong doing, because I don't

know, where it appeared to the public that the State's Attorney had secured an indictment against personal or political enemies without any reasonable grounds whatever of the man's guilt. I am looking for light on this subject, but it does seem to me there is less danger of a miscarriage of justice to the extent of putting an innocent man on trial for his life or liberty if he is permitted at all times to have a hearing in open court before an examining judge, with the right to prejudice witnesses than there is if the grand jury met in a secret star chamber proceeding, and indicted him when he knew absolutely nothing about it. That is the way it seems to me. There may be an answer to that, but I don't know what it is.

Now, of course some of us are inclined to think if the Constitution of the State of Illinois is changed in the slightest respect, the bulwarks of our liberty are absolutely gone, and we are headed for the demnition bow-wows, and nothing can stop us. We have heard that argument raised against every change of every kind, in an effort to bring this Constitution up to date. In several of the states, Wisconsin, Georgia, Kansas, Massachusetts, Minnesota, New Hampshire, Vermont, Virginia and others, there is no requirement in the Constitution for a grand jury in any case, and in all of those states grand juries are permitted in some cases.

Now, who has ever heard in these old New England states here enumerated, or Wisconsin or Virginia or Oregon or Maryland or Georgia—there are no protections for the honest citizen who is suspected of a crime—who has ever heard that the honest citizen is in jeopardy in those states, any more than in Illinois? Certainly I have not. I have never heard it charged, yet I think there are only twenty-five states in the Union where the Constitution requires a grand jury in any case whatsoever. The tendency has been for the last twenty-five or thirty years in other states to restrict the use and to limit the use of the grand jury. People have not as much time as they had in the beginning of this century, to have three different hearings or trials for every man who was suspected of a crime, and it does seem to me that we won't commit any wrong against any man or endanger life or the security of person or property in this State if we travel along just a little as the other states have travelled, and restrict, or permit the restriction of the use of the grand jury to cases of great importance, to require that a man charged with an offense of a minor nature comparatively be content with two hearings instead of three.

Now, just one more word. Something was said by the distinguished gentleman from McLean about a powerful criminal who might not be charged with crime if there were no grand juries, cases of public graft and so forth. Probably he is right about that, I haven't much doubt about it, because in most of these states where the use of the grand jury has been restricted, it is provided a grand jury may be called, and they are called in certain instances where public graft is suspected, where the supposed defendant is a man of political influence or great power. For these reasons, gentlemen, it seems to me that we may safely leave it with a provision in the Constitution requiring the grand jury in capital cases, and permitting its abolition in other case, leaving the details of that to the legislature, just as is done in this provision, making the position of the man charged with crime much more secure than it was in the old Constitution, or than is proposed by this amendment. According to this provision which has been submitted by the committee there must be in cases of felony either an indictment or an information by the leave of court after a preliminary hearing, and no such provision of that kind is embodied in this amendment. It is left entirely up to the legislature to abolish the grand jury altogether, in any case and all cases, and everything required and put in there to safeguard the individual fails.

Mr. MACK (Hancock). I feel I cannot do my whole duty this afternoon if I do not express just for a minute an argument of the down State on this proposition. This argument has been so tainted with the conditions in Cook county, it has been accurately and truthfully stated before the Convention, that I believe this proposal is entitled to about three minutes of down State

argument, with the promise to Cook county that I will not take more of their time than that. I am going to ask, Mr. Chairman, just a few minutes for the down State. In the first place, I want to say this, in the down State, in the counties especially of twelve to fifteen to thirty thousand, the grand jury functions about as it always did, its functions have never changed. When the court meets on the first Monday of June, October or March, the grand jury is called together by his honor, the court, who comes in and instructs these men as to their duties. He instructs them thoroughly as to the investigation of crimes throughout the county, he tells them what should be done, and he tells them everything suggested by the honored member from McLean county, which has been a part and parcel of this law for years and years past, which is that each man may bring in his own idea as to the criminal situation in his own township. When he gets done with that, he instructs them that the State's Attorney is not to be present when the indictment is voted upon, and I am satisfied, Mr. Chairman, that down State this instruction is followed. Now, I am satisfied with another thing, that down State the State's Attorney does not begin to get all of the indictments that he goes after or that he tries to make the grand jury the tool for. Each grand juror is looking after the things in his township and I know cases time and again where the State's Attorney absolutely failed to get what he wanted, and in some cases got what he did not want. This being the case, I want to suggest on the part of the counties down State that we insist on this condition existing, and we insist moreover that this change that is brought in here, gentlemen, which provides for a preliminary hearing by leave of court, would be a mere perfunctory matter; as has been ably said, if the State's Attorney appeared before the court and asked leave to file an information, it would be granted.

Let me ask you, who are lawyers, men who try cases in court, let us be sensible and let us look at this straight in the face, in what kind of an attitude would a man be representing a man charged with a felony, appearing before his honor in open court, where the matter was to be tried, presenting his case, can you imagine any lawyer possessing any sense or who knew any law doing that? No one but an insane man would go through such a modus operandi. What would it be? It would be a mere perfunctory asking of leave of court, which would be ordinarily granted, and for nothing but the ordinary asking.

The strongest reason for a change was presented today by the able argument of our friend from Bureau county. He ably suggested that a man might lie in jail weeks and months after a trial term before he could be tried. That has been covered fully and completely by the amendment just suggested. As to that position, you are right, but that has been fully and completely met.

One thing more, the gentleman of Cook county has suggested to us that it is not a thing which has arisen for the first time today, that there is a condition in another county, a county with a great population, a population of between two and two and one-half million people, which is now forty-three per cent and more of the entire population of the State of Illinois, an unusual condition, a strange condition, and a condition which appeals to those gentlemen assembled here. The gentleman sitting to my left, the honored member of the Cook County Bar and a former member of the Cook county judiciary, has suggested all of these things, and suggested how it can be taken care of without any doubt in the world, that is, upon the Judiciary Report, of which committee he is a member, and of which the speaker is a member. He expects to present a provision by which that very thing can be taken care of.

I suggest as to the conditions up yonder that you speak of, this is right, salutary and proper, but down State it is another thing. The grand jury system down State, where they come from the townships and carry with them the wishes of the people, and the knowledge of the crimes, that that system should continue to exist as a means of justice for the people. I say right here for myself that I have no doubt other members of the Judiciary

Committee will say the same thing to you, that I brought up that matter in the committee, and if your conditions are different up yonder, as no doubt they are, it will be recognized as existing, and if this amendment passes today, as it should, at a proper time on second reading you will have no difficulty whatever if you shape some provision for your county which we will all support, in having it adopted if it seems proper to you members from your county. Embody it in another provision which you think is necessary.

Let me ask you today if this is a condition that is necessary in a county with a population of two or three million, is it necessary in a county of thirty thousand? Don't take that which applies to a county of two or three million and force it on a county of thirty thousand.

With that, I desire to leave the matter, with a suggestion that I do believe, sirs, that a thing which is admitted to come wholly, and entirely from the body of men interested in discussions of the law, elected for that alone and with no other demand whatever, should not be forced on this Convention, and we should not be the means and the instruments, a dignified Constitutional Convention sitting here at the will of the people, to pass a Constitution which may last fifty or one hundred years to come, to let it appear by the debates of this Convention for all the years to come that that Convention wanted a provision which took away from the man charged with crime down State the right to a trial by grand jury, according to the practice of years and years back.

With this I leave the matter, Mr. President, with the suggestion that we are not reactionary; at any point where proper practice says we should move forward we are ready to move, we are ready to move now if your conscience dictates. I believe you are talking about your experience in your county, and if that is the case we will be glad to move up and give you what you need in your county. Let us grant this amendment, because it grants full and complete protection and leaves the gentlemen from Cook county to obtain what necessarily applies to their county.

Mr. GREEN (Champaign). The last clause was inserted there against my judgment, and I retained as much of the old Constitution as possible. They told me it would be perfectly acceptable. I wanted to strike that out, leaving it as it is now and leaving the grand jury with fifteen men.

Mr. SHUEY (Coles). I rise to a point of personal privilege. I believe the amendment of the gentleman from Champaign meets the objections of those who opposed the substitute, and so therefore I withdraw the substitute.

Mr. GEE (Lawrence). I want publicly to thank the gentlemen of this Convention, and also Mr. Miller, as he has taken from my mind the doubt I had about the practicability and the feasibility and necessity for this Section 8 as reported by the Committee.

I don't understand that the mandate of the legislature ever brought this Convention together, but that we were elected for the purpose of revising, altering and amending this Constitution as the exigencies of the times demanded.

There is a good deal said about necessity. Our mind is brought back to the old days of England, King James and all of the horrors of those days. Our forefathers got out from under them and planted us under new environments. After fifty years of a Constitution we are here again under different conditions and environment from what the men of 1870 were. Stripped to the bare, the proposition as I see it before us is whether or not we can enlarge the prosecution of crime by way of information or not. The trial by information is nothing new. We are using it in our criminal procedure and have for years. The State's Attorney or any other credible man can file an information, but cannot file an information against a man charging a man with felony. He can charge a man with petty larceny, with stealing a pair of shoes under fifteen dollars—if that kind of a shoe is in the market—but that is as far as it goes.

Gentlemen, what brief can any man hold for this, what equity has a burglar or a destroyer of property, a robber of a bank or highwayman over

the rights of the petty larceny thief, that one can be prosecuted by information and the other can not? The reply to us is that the grand jury, the great bulwark of the civil liberties, the protection of personal rights, shall sit and sift the evidence within closed doors to find out whether or not they should be indicted.

I speak and unfortunately alone have to speak for the nonce, for a district that has more counties in it than has any other district in the State of Illinois. While we are small in population, I want to assume for our district that we are great in achievement, and we are great in trying to live up to the laws of our country and strong in the prosecution of crime so far as we can be. As far as I know in the Shoe String District along the Wabash River for two hundred miles we have never had a State's Attorney in either county that suborned his office or blackmailed any man.

We write in our Constitution the offer of a speedy trial. Who needs a speedy trial more than an innocent man? Who at times don't want a speedy trial but the guilty man? Oh, it is said some men will be put in jail and held without bail, that will happen, gentlemen, on any kind of a condition, information or otherwise.

Passing from the abstract to the concrete, it often happens in the county where I live, where the grand jury do not stay in session very long, the searchlight of the individual grand juror throughout the county limits, his own report of any infractions that come to his notice, between them they get anything that there is to report, the indictments are returned to court and they are discharged, and most of the laymen in the counties I represent are, as I expressed them, are always glad when they do adjourn, because they take less out of the country treasury. But it often happens after the grand jury has adjourned there is a crime committed, they have a man who has stolen over fifteen dollars or broken into a storeroom or robbed the merchants, if he is caught he has to await the next action of the grand jury some six months after that. If he is apprehended and taken before a committing magistrate, the artful lawyer of the defense, and I think I can speak for our class in a measure, gentlemen, we are pretty good guessers at least as to whether we have a guilty man on our hands or not, we will not get fooled very often; if the case is in any way doubtful he can get bail. We have the examination before the preliminary magistrate, feeling many times with certainty that before the time the grand jury comes along the interest in the prosecution will wane or entirely die out. Sometimes the artful client, the defendant, will be good until the next grand jury, and make peace with the prosecuting witnesses, so when the grand jury meet no bill is found and the felony goes unpunished.

Hardship will occur in any plan we adopt, but there is not much danger in Section 8 in allowing informations to be filed in all cases of felony outside of capital cases. We have tried it out in petty cases, where a man can be incarcerated in jail, and as far as I know, I cannot speak of the multitudinous bulk of cases and conditions you have up in Cook county, but speaking for my district where the criminal law is in operation in the seven counties of the Forty-eighth District, we have tried the information theory in the lesser grades of crime and we are satisfied with it. I have no hesitancy in putting my district on record as being in favor of enlarging that power of information, and allowing the bank burglar, and the highway robber and the higher grade of criminals to be tried by that means, as well as other infractions of the criminal code, by information all criminal cases except capital or homicide to be likewise prosecuted by information. It was cleared up to my satisfaction that the "leave of court" did not mean the examining magistrate, but the court on the preliminary hearing I am satisfied to go the length of the section. These higher class criminals which make it impossible for us people to feel safe walking down the streets of the City of Chicago to look at the wonderful shop windows after supper time, seeing the beauty of the things which come before our eyes, we hesitated because we did not like to leave the hotel lobby because the robber and the highwayman might be lurking around the corner for us,

what rights have they to ask the Constitutional Convention to say to the people of the State of Illinois they must not be tried on an information? Secured as they are by these two things, first, that it must be established that there is a crime committed, and second, the probable cause that he is the guilty one, and then comes the court, and then if they find in the courts of Chicago—and I do not believe the newspaper report, I believe some of you look through enlarged eyes at your courts when you speak of them—they do not do their duty, there is the power behind the law which you will never write out and there is the power of public opinion. That is the power which every one of us courts in our efforts, that will not criticize nor censure our acts. But the courts will aid us, you have once in a while cases where the State's Attorney has taken opportunity to prosecute an innocent man. I have been on both sides of this question, prosecuting and defending for over thirty years, and I want to tell you my experience is that seldom or ever have I known of a purely innocent man having to stand up before the bar of justice from a blackmailing hand. It may be done in the northeast part of the State, but it is not done in my part of the State. Then again every criminal is surrounded by all the presumptions of innocence. There are artful witnesses, and the clever criminal lawyer rings the changes on reasonable doubt. That is a thing which is poured into the mind of every jury in a criminal case, and oftentimes leads to an acquittal when there is no reasonable doubt. With all these safeguards and the same character of jury to try the man on an ultimate trial, as on an information, why do we hesitate to take the step forward?

There is another reason, it might not be alone sufficient to support the proposition, but I am in favor of it because of the great expense, in the days when we are strenuously trying to get from the taxpayers pockets enough to run the government. With the great waste, I will put it, in the criminal courts trying to suppress crime, and I look at the suppression of crime from a little different angle than some people do, I believe it has a two-fold character, it must if it is exercised rightly punish a criminal for violating the law, that mandate that came down from Sinai, you must not steal, must be lived up to. Human laws must be obeyed up to the utmost. Then again a proper application of the criminal code will deter other criminals, and I might put as a background to that, gentlemen, what I think is important, that is, that the safety of the people is uppermost. Men have a right after their toil and self-denial of years to go to their couch feeling safe from the midnight prowler. And when they have the misfortune to be robbed of their property, taken out and assaulted, robbed on the streets of a great city, they have an equal right with every other man to walk with security, then we are told when you get that kind of a man into the toils and meshes of the law you must wait until the grand jury comes along. Wait, it don't make any difference how long, wait until the hour of emergency is passed, wait until some man who lives down State has got to go back or has got his property back and there is no more grievance about it, and it is forgotten by the public at large. The time of action is always at the moment when you get the thief, file an information. What is an information? It must be filed with the same certainty that an indictment is drawn.

It has an additional reason for it, which my worthy friend from Cook county, Mr. Morris, seems not to look on with favor, and I look on it with very much favor. It can be amended if through ignorance or mistake some "i" is not dotted, some "t" not crossed, some vagary in the language, it can be amended, but not so with the indictment.

It is a benefit for the criminal, guilty as he may be, indicted by the grand jury, and some of us in our practice learn to look over the indictment a dozen times. Very few lawyers are lawyers engaged by the scrivener who wrote the indictment who will say to him, "There is a mistake in it," but on the other hand they say, "The grand jury is in session"—there is concretely talked, not an academic proposition, and I have seen it frequently done—the grand jury can be home the next morning and then they raise the majesty of the law. Of course no lawyer tries to do anything but carry

out the law, and these old provisions of the past must be carried out at all times, and here is some language in the indictment the lawyer does not understand what these means. The court puts his glasses on and dives down into that, and there he says, "Why, there is a reasonable doubt; I cannot understand it." It may be in the statute, but a precedent will be established so the indictment is quashed.

Even men who came two hundred miles to Chicago, it may be at the expense of the county; they may be laymen and do not understand the intricacies of the criminal pleading; they say if that is the way they do business, turn men loose and discharge them, I will not come back any more. He may live in another state and the criminal law of this State has gone glittering and the criminal has gone free.

If the State's attorney down in our county has a man bound over after the grand jury he has to wait until the next grand jury before he can be indicted. He has to lie in jail. Why? Because you won't allow an information to be filed, when in five minutes the State's attorney could move to amend, and the court could amend it in that particular which is not strong enough to hold him, and put it in action again. Nobody injured. Everybody is in the case. The defendant is as well fortified with legal acumen as if he was a man convicted or found guilty by twelve men unprejudiced in the matter. That is the way we ought to handle the criminal law.

I am only speaking my own views, but I am kind of tired of old precedents. I have the year-book cited against me once in a while, but what in the world did those people have to do with us that we should be bound hand and foot because five or ten centuries ago some men made a precedent. Let us be forward looking, men. Let us take time by the throat and allow our State's attorney or anybody else, if he won't do it, file an information putting the accusation in clear-cut language that the law demands. If we have not met it in the first instance, amend it so as to put him before the bar of justice in front of his peers, with the unprejudiced mind of the jury, where he must go to trial on the information or indictment. Let us go a step forward and be a proud people in that line.

About the State's attorney, the information I have under the rule of the selections of the State's attorneys, they must have evidence sufficient to take care of them, because in the smaller counties they are not very anxious to file informations unnecessarily. They are like all the rest of us, they get by with the least resistance. Don't you ever take to heart for a moment the argument that if you put this information law into the Constitution there is going to be a flood of informations filed by the several State's attorneys all over the State of Illinois. If that is the kind of men you elect, and we find they are not the kind that should be there, we will take them out of office. If it is brought to their knowledge that crime has been committed and it is brought to their information accurately, in these lays of shorthand and typewriting, where the evidence can be preserved, the court don't have to guess, and our courts are not so poor but what they will give time to that matter. I am willing to trust them. After the preliminary hearing the State's attorney comes and says, "Here is the evidence; here is the crime absolutely committed; here is the probabilities that this man committed it; I want leave to file this information," and he will get it.

I think we are not taking a step backward in this. As far as my district is concerned, I want to say that I am in favor of this proposal as it is now.

Mr. DAVIS (Cook). I move the debate be now closed and we proceed o vote on the pending question.

(Lost.)

Mr. JARMAN (Schuyler). I want to be advised as to one part of this action, on line 3, it says "on information filed by leave of court granted."

At the preliminary hearings in the country districts we have justices of the peace, and they are under the laws of court. Does this provision permit an information after a preliminary hearing before the justice of the peace?

CHAIRMAN RINAKER. I presume the preliminary hearing would have the ordinary meaning.

Mr. JARMAN (Schuyler). I offer the following amendment and move its adoption: Insert after the word "of" in line 3, the word "a" and after the word "court" the words "of record." So it will read, "on information filed by leave of a court of record granted after a preliminary hearing." It certainly is not possible that an information can be filed against a defendant simply after a preliminary hearing before a justice of the peace.

Mr. LINDLY (Bond). You settle that question by having a superior court in each county.

Mr. JARMAN (Schuyler). We haven't got that, we have a justice of the peace. If we have a superior court in each county, then the amendment still applies.

(Adopted.)

Mr. DAVIS (Cook). I move Section 8 be adopted as amended.

Mr. DUPUY (Cook). I hope the gentleman will yield until I make one suggestion here along the line of debate.

Mr. DAVIS (Cook). Certainly.

Mr. DUPUY (Cook). As amended this now reads, Any person charged with a felony may in writing waive an indictment, and in such cases may go to trial on information filed, provided before such waiver is filed it will be the duty of the court to inform the defendant of his rights in the premises.

Well, it is suggested that this may be covered by a statutory enactment, and I withdraw the matter for the present, but I give notice if it is not covered by statute, I am desirous of seeing that it is amended so that the defendant who is willing to go to trial on an information shall not be under the necessity of lying six months in jail as has been talked of here today and as we heard before our Judiciary Committee. I think he should have the privilege, whether he wants to plead guilty or not; if he wants to go to trial without waiting for it, it should be done. I withdraw the motion for the present, but I give notice I shall offer it later if not covered by the statute.

CHAIRMAN RINAKER. The question before the committee now is on the adoption of Section 8 as amended.

(Section adopted.)

CHAIRMAN RINAKER. The question before the committee is on the adoption of Section 9.

Mr. GEE (Lawrence). I offer the following amendment and move its adoption:

"Amend Section 9, Article 2, after the word 'committed,' in line 7, by adding the following: 'Provision may be made by law for taking depositions of non-resident witnesses in criminal cases, other than homicide cases, by the State or the accused, to be used for or against the accused.'"

You all know under the constitutional provision and as reported under Section 9 the language—the defendant having the right constitutionally to meet the witnesses face to face—bars any other evidence outside of record evidence to be used in the prosecution of criminal cases.

Now, I think with the power given to us to alter, amend and revise this Constitution that there is a crying need and a practical need to enlarge this section by allowing the depositions to be taken of non-resident witnesses.

This matter comes to me probably from a little different point of view than it does to many of the gentlemen in the chamber. My county is the extreme eastern county of Illinois on the Wabash River and across the river is Indiana, and that is true of every county in my whole district. We meet the proposition oftentimes where a crime is committed in our midst

and the main witnesses some way or other get over into Indiana, and when the trial day comes a good many prosecutions are passed for the reason that the State could not furnish the witnesses face to face with the defendant.

The criminal law is somewhat different in its practical application from the civil law in this, that many things are done in defense of criminals that would not be done in an ordinary civil case. In many places that I know of it is considered a fine technical tactic—not directly perhaps, but indirectly—to lend assistance in a way so that a witness most important is not at the tribunal on the day of the trial.

I cannot conceive, looking at it without any prejudice, why the most important civil rights of life, involving any man's money—it may be involving the character of the citizen, which is as precious, or should be, if not more so, than his property—a deposition can be taken of non-resident witnesses, and yet where a crime has been committed we are still standing by the hoary past and say that a deposition cannot be taken.

I know it may be advanced that the opportunity given to a court and jury to see the conduct and the demeanor of the witnesses on the stand is of great advantage in making up the minds of the jurymen as to what they believe in contradiction of the facts. But that is not of such importance that the more important fact should be lost sight of, having no evidence at all.

Now, men, we are standing on a large ground. The census proclaimed that we are third in population in the Union. Can we stand back in the recession any longer and see other States in the Union advancing? This morning I took time to look up and see how much advance other States in the Union have made along this line while we have stood still on this question of the hour, and I find in California, the State I would rather be almost than any other State—but, being to the manor born, I have great love and respect for Illinois, and I think I expect to live and die on the soil of Illinois—but I want if I can from the viewpoint I have on this question to bring my State up to the proud class of these other States on this question. The third section of the Bill of Rights of California reads:

"The legislature shall have power to provide for the taking, in the presence of the party accused and his counsel, of depositions of witnesses in criminal cases other than cases of homicide when there is reason to believe that the witnesses, from inability or other cause, will not attend to the trial."

You will notice that the California provision in their Bill of Rights goes farther than I am attempting to go in this amendment. But I know how with hoops of steel many of us are bound by ancient precedent. I realize how many feel that it is dangerous to take a step forward, so I have confined it to non-resident witnesses.

I want to tell you a concrete example. It is not academic in any way. Since I have been in this Convention a merchant's store was robbed in the night time of \$1,200 worth of goods. Not a track or scintilla of evidence left by which even bloodhounds could tell in what direction they had been taken.

Fortunately, several days after, over in Terre Haute, Ind., some thieves got out amongst themselves and the police over there were apprised of the fact that the dispute was over the dividing up of the stolen goods, which made it possible for the officers to learn that the goods were stolen, and a wire brought my friend to Terre Haute and he recovered a portion of his goods and brought one of the men back to jail. We are relying now on the promise, and expect when the day of the trial comes up, the only evidence that we have, possession of the stolen goods in the hands of the thieves, will be forthcoming by the voluntary presence of witnesses from outside the boundaries of our State, but no law of Illinois could compel or bring into that court this most important and only evidence necessary to conviction.

Should that be? Has that particular case of thievery a right, where men are trying to formulate something for the future to protect property

and to protect citizenship, to ask the risk of a man not being able to come or not being willing to come? I have known of a number of similar cases down in my district where the prosecuting witnesses, with all the knowledge of the ownership of the property, necessary, as we all know, in the prosecution of larceny cases, got tender feet or something and took a trip over into Indiana. Consequently the State had no witnesses.

Now I cannot conceive of any reason under existing conditions to protect the defendant and deny the State the right to have this necessary evidence taken down of non-resident witnesses.

If it was an open question of construction as to what the language of the Constitution meant, meeting witnesses face to face, it may be argued possibly that a deposition gives the defendant the right to meet the witnesses face to face, and I would be inclined to that view of it, but the Supreme Court has settled that and so the Constitution must be amended or we must stay tied hand and foot as we are. Can you see any principle, any reason why the record of a marriage or the record of a court could be introduced in a criminal trial, or a dying declaration even, where no face appears, and yet be legal, different from the proposition I am asking for that a deposition shall be taken? I think the deposition would be more in favor of giving the opportunity to the defendant to meet his accuser face to face. He can be there when the deposition is taken. Of course, the face cannot be brought into the examination, but the great object of the section is absolutely there.

There is another reason. I expect if the gentleman from Cook county was asked the question about the matter of expense he would answer his county suffers great expense in paying the mileage and daily stipend of the witnesses attending the courts of his county in criminal cases, because outside of his county they are entitled to their pay. We would say for that very reason, gentlemen, that is potent on this proposition, because witnesses sometimes tire out. I had a case once, happened to have, up in Cook county, and I had to bring witnesses from Richland county. We got up there, and after we learned how to get into the court house, to get in where the hurley burley of business was going on, we got in and got the ear of the court and we found that our case had been continued, and I had a whole lot of trouble satisfying my witnesses before they would ever come back again. And I expect that that has happened more times than with me.

Now, California is not the only state that has a paragraph on this proposition. Over in Ohio, and I am very proud of Ohio because to get myself in the record properly I want to say to you that my ancestry came from Ohio, and next to Illinois I am proud of Ohio. They had a Constitutional Convention over there in 1912, and they took a forward look at this proposition; they spoke of those confined having speedy trials and giving the accused a copy of the indictment that he is to be tried on, and so on, safeguards, just as we did, and then

"But provision may be made by law for the taking of depositions by the accused or by the state, to be used for or against the accused."

Colorado has practically the same doctrine, in a measure, and our sister state of Indiana, without any Bill of Rights about it at all; but where I think I can claim for them that they safeguarded criminal law as well as we do, of course they only have six in the grand jury when they have one, and they file informations, they allow depositions to be taken in criminal cases. A man cannot hike across the Wabash river and get out of testifying and defeat the ends of justice there. They come over and take his deposition. Let us plant ourselves a step forward. You will not militate against the rights of a defendant. He will have the same opportunity to meet his witnesses face to face, and he will have the additional right that from the time the deposition is taken with full knowledge of its contents he can hunt to find evidence to oppose it, and in the trial of a case frequently we are all surprised with the evidence, and have no opportunity to controvert it.

So I think, stripped bare, I think it is an additional right, with all the rights, sovereign and otherwise, by which the criminal is now protected,

and he would not be harmed in the least, but the state would have a right, a material right, guaranteed to it, which it has not now, and I believe you ought seriously to think in adopting the amendment.

Mr. LINDLY (Bond). If the criminal being prosecuted is not able to pay his way to where the deposition is taken, would the State pay it, or the county?

Mr. GEE (Lawrence). I don't know; that is legislative. Over in Indiana they would pay his counsel fees; they will appoint some one for him.

Mr. MILLS (Macon). When this Convention went over last week, I made the suggestion it go over for the consideration of this section, at the suggestion of the State's Attorneys Association of this State. They stated it was almost impossible to convict persons who broke into cars of through freight. For instance, they gave this instance: freight from New York through freight to New Orleans, that they had to bring witnesses from New York and also from New Orleans to prove their case, and if there were three or four of them, one of them or two of them would not be ready for trial, and that the other would insist in having the trial. In order to meet all of the contingencies, the county was put to the expense of bringing these witnesses back two or three times from these long distance points to prove the case about this through freight. It was at their suggestion that they wished the new Constitution to provide in some way that there might be a clause put in something like this section which would permit the taking of testimony by deposition, by owners of the property and the consignees, and that is why I asked last week to have this matter go over.

(Amendment lost.)

CHAIRMAN RINAKER. The question is on the adoption of Section 9 as read.

(Section 9 adopted.)

CHAIRMAN RINAKER. Section 10.

Mr. TAFF (Fulton). I move its adoption.

(Adopted.)

CHAIRMAN RINAKER. The question is on the adoption of Section 13.

Mr. MILLER (Cook). May I ask a question of the committee as to the last sentence, "The General Assembly may authorize the State or any county, city, village or incorporated town, to take in furtherance of any public improvement, by and with the approval of the court as to the necessity for such taking and the quantity to be taken, a reasonable quantity of land in excess of that which is actually to be occupied by the improvement, such excess taking to be in fee simple, and to hold, sell or lease such excess." Now, what necessity is it contemplated may arise to take land in excess of that to be occupied by the improvement?

CHAIRMAN RINAKER. The proposition that was presented to the committee involved the making of improvement practically in the City of Chicago, where, by reason of the fraction taken by the improvement, there were pieces of lots outside of the line of the improvement, rendered useless by the taking, and the title remaining in the owner of the remainder of the lot which was taken. The property was beyond the control of the municipality and was of small value to the owner, had practically been paid for in the assessment of damages, and yet could not be controlled by the improvement, and could be used in a way that was detrimental or injurious to the improvement, and this was the final draft of a provision that was intended to permit the municipality making the improvement to acquire title to the fractional part left.

Mr. MILLER (Cook). That is, the idea was to acquire title to the fractional part left, in order to save money to the city?

CHAIRMAN RINAKER. I cannot say that that was just the idea, but it was not for the purpose of making money by the city, but as it was paid for anyhow the property was more valuable when controlled by the city than when remaining in the owner of the lot.

Mr. MILLER (Cook). That is what was intended by the committee as constituting a necessity for taking of that property?

CHAIRMAN RINAKER. Yes.

Mr. MILLER (Cook). A reasonable quantity of land in excess of that acquired to be occupied, what is the basis of the word "reasonable," necessity or something else?

CHAIRMAN RINAKER. Both.

Mr. MILLER (Cook). What else?

CHAIRMAN RINAKER. That is necessity to the development, as to whether or not a given piece situated and sought to be taken was reasonably necessary to be taken, which might be left and remain valuable to the owner.

Mr. MILLER (Cook). It would be on the basis of the court's judgment as to the necessity or reasonableness?

CHAIRMAN RINAKER. The consideration of the entire circumstances surrounding the particular piece of land by the court having jurisdiction.

I wish to say further in reference to this section, as another matter, in the first draft there was referred to this committee Article 11, Section 14, of that article, the words "which shall include property of incorporated companies as well as individuals" were inserted in the present article with a view to covering what was included in that section, Article 11, Section 14.

Mr. WOODWARD (Cook). I have an amendment to Section 13 which I would like to offer. In explanation I might say that I have had the matter up with the chairman of the committee and also the delegate from Cook, at whose request I understand this particular section was inserted in this article, and I am given to understand there is no objection to this amendment. After it is read I would like to say something.

At the end of the section, after the word "excess" add these words "or any part thereof."

In reading this section it occurred to me that it might be possible for some court to hold that it would have to be disposed of in whole, and it might be that it was profitable to dispose of only a part of the excess. With that in mind, I offer the amendment.

(Amendment adopted.)

Mr. JARMAN (Schuyler). I want to ask as a matter of information why the committee considered the question of encumbering such excess, or if they did? It occurs to me sometimes a municipality might want to mortgage such excess. Was that considered by the committee?

CHAIRMAN RINAKER. That was not. It was considered by the committee on the general proposition that the piece of property affected would be small and of little value. It was not contemplated that property of any commercial value would be taken under this clause. No property that would have such value as would make it the subject of a mortgage.

Mr. JARMAN (Schuyler). I introduce the following amendment and move its adoption:

Insert after the word "sell," in line 11, the word "encumber." That occurs to me—in explanation the sentence will read, "such excess taken to be in fee simple, and to hold, sell, encumber or lease such excess."

That occurs to me because it may be feasible in some cases to mortgage such excess. If it is not feasible, then this section would not have to apply.

Mr. HAMILL (Cook). It seems to me the adoption of the amendment would be unwise, because it would lead to the inference that pieces of property of commercial value might be taken under this section. The intention of the section is to permit the taking only of small remnants of substantially no commercial value, and it would be unwise to hold out the inference that they are of commercial value, as it seems to me would be done if there was permission to mortgage them.

Mr. JARMAN (Schuyler). Wouldn't the same thing apply to leasing?

Mr. HAMILL (Cook). No, not at all. A narrow strip alongside of the border of the improvement may be taken or can be leased for a billboard, but it ought not to be encumbered.

(Amendment lost.)

Mr. DUPEE (Cook). I would like to say just a word about this Section 13, the latter part; that part that applies to excess condemnation.

The experience of municipalities, large and small, in all parts of the country has led them to find that there are some defects and difficulties which hinder and prevent the full advantage resulting from the opening or widening of streets or the taking of private property for their public purposes, and the principal difficulty occurs in regard to the remnants.

You take in the condemnation of land for public purposes, especially in cases of extending and widening streets. It frequently happens that only a part of the lot is taken and it lies within the line of the improvement, and the parts of the lot lying outside of the line is too small to be of any useful purpose. The result is that it lies there disfiguring the improvement, and often the only use that it can be put to is for billboards. It cannot be taxed any particular amount, it is not marketable except in conjunction with the adjoining property, and generally neither the owner of the remaining portion or the owner of the adjoining property has any use for it. They simply disfigure the streets that are being opened.

I am not going to take your time citing instances of those cases, but the evil has been so general that it has come to the attention of municipal authorities of towns in all states. In some states constitutional provisions have been enacted to meet that evil.

What it is really aimed at, and what seems to me to be most desirable, is to do away with the remaining portion of the lot, and that is the purpose of this power of excess condemnation, to do away with the remaining portion; to make it possible for the legislature to provide means of doing that.

In the committee, while this was passing through the committee, there was a great deal of care and discussion given to the matter, and it was changed in a good many respects from the original proposal, and I think it is possible to change this further with benefit.

There are two things about the present form which I would criticize, and one is that there is no standard or criterion given here by which to measure the purpose for which land in excess may be taken. Now, the constitutions of Massachusetts, New York and Rhode Island have provisions on excess condemnation like the provision that we have here. They are not self-executing and do not act directly, but they confer on the legislature the power to enact laws to carry that out, and that is what the provision here does.

The states of Ohio and Wisconsin do not refer to the legislature, but act directly.

The three states I have mentioned—Massachusetts, New York and Rhode Island—also contain substantially this language: After authorizing them to take the remaining they provide that in no event will the taking be more than sufficient to permit suitable building lots abutting on the same. Now, if that is inserted here by way of amendment it furnished a direct criterion for the purpose of the taking, and it furnishes a limitation on the extent which can be taken, and it will enable the court to know the measure of its powers and the purposes for which the land is to be taken, and I therefore offer as an amendment to that section the following:

By adding to line 11, after the word "improvement," the words "but in no event more than sufficient to permit suitable building lots abutting on the same."

Mr. MILLER (Cook). Then I take it you mean that the extra land to be taken or which the city might take would not be limited to fractional parcel in order to make that fractional parcel salable. Is that correct?

Mr. DUPEE (Cook). It authorizes the taking of so much of the adjoining land as is necessary to be added to the original land to make an original building lot.

Mr. MILLER (Cook). That would be for the sole purpose of making it salable?

Mr. DUPEE (Cook). No, not merely for making it salable. That is merely for the purpose of preventing the continuance of the fraction.

Mr. MILLER (Cook). Wouldn't that be for the sole purpose of making it salable because it would not want to be compelled to build on all these fractions?

Mr. DUPEE (Cook). Yes.

Mr. MILLER (Cook). Wouldn't it be just as well to authorize the owner of the fractional land to have the right to condemn the adjoining land?

Mr. DUPEE (Cook). That would lead to a multiplicity of actions and confer the power of eminent domain on owners of private property.

Mr. MILLER (Cook). It just seems to me that if the cases of condemnation were confined to the fractional lots it would be entirely safe and it would be for an evident purpose, the purpose being to prevent the land from being used for some purpose which would be contrary to the public good and public interest, but it seems to me when we authorize the taking by individuals of an adjoining lot, as well as a fractional lot to make that salable, that is not, strictly speaking, a public purpose or a public interest, because it simply would amount to this, that the only public purpose or public interest would be to add market value to the property already unnecessarily taken in order to save some money for the city, and that is not, strictly speaking, a public purpose. It would seem to me that it is entirely appropriate to authorize the city to take fractional pieces of property so that if not valuable for buildings or for sale they might be kept out of a use which would be detrimental to the public interest.

Mr. DUPEE (Cook). I think the gentleman is mistaken about his criticism on the taking of the fraction as being sufficient. The thing that is set out to be accomplished is to get rid of the fragments. Now, if the result of excess condemnation is merely to transfer the title to the fragments from the original owner to the municipality nothing has been accomplished, because you still have this fragment. Instead of the former party owning you have the fragments still existing, thereby spoiling the effect of the improvement. The very purpose of the provisions as they were considered in the constitutional conventions in New York and in Massachusetts and in Rhode Island were to enable the fragments to be ultimately disposed of so that the street or park or other public ground in question should not be destroyed in appearance by them. Take such an instance as a diagonal street, for example, creating a lot of small diagonal fragments. Nothing is accomplished by transferring title from the private owner to the city and leaving it there. It is necessary to get rid of it, and the experience has been that the best way to get rid of it where it was suitable to do so was to take an adjoining lot and create a complete lot that was marketable in order to get rid of the entire tract.

I want to call the attention of the committee to the fact that in this proposal that we have here in Illinois we have gone a step farther than any state has in safeguarding the interests of the property owners, because this is the only proposal where explicit reference has been made in the Constitution to the power of the court to pass on the taking, and in this case that has been so authorized. First, the General Assembly can pass such laws as it see fit, and in each particular case the court can pass on that particular instance. So there is a greater protection on the entire transaction than any other state has on this subject.

Mr. CUTTING (Cook). I am very much in favor of this general plan or proposition. It has been a matter of public interest in our city for a long time that some such power as this should be given to the city council. I hold in my hand a report of the Chicago Bureau of Public Efficiency. There are in this report a great number of illustrations of what has happened in condemning property for various public uses that have resulted in many cases in leaving narrow strips of land along the length of the street. The first illustration here shows a strip three feet wide on one side of a street, Wabash avenue, and 166 feet long, and that is a typical illustration of what has been going on. That means that Twelfth street, widened to a width of 118 feet, has not a strip of land 3 feet wide and 166 feet in

length. It is perfectly plain that that three foot strip can be used to no real valuable purpose by the owner, but it can be a great obstruction to the improvements on the street and to the realization of the purpose of the municipality or the municipal authorities which they had in mind in widening this street to a width of 118 feet. The result is that this piece of ground will lie there indefinitely. If the owner is of a speculative turn of mind he will endeavor to hold up the owner of the adjoining lot and exact an excessive price. It is quite to the interest of the people that this three foot strip of ground should be used for the purpose of locating improvements along this great highway.

In regard to the amendment offered by the gentleman from Cook, I think it should not prevail. I believe we have here in the provision of the section reported by the committee all the safeguard that the private owner needs without any undue grant of power, providing that without undue grant of power property shall not be taken. I believe the law to be now that in condemnation proceedings public corporations cannot take land in excess of its reasonable needs for its purposes and uses. That matter is determined by the court, and it is entirely safe to leave it in the hands of the court to determine how much ground shall be taken in excess of the amount that is to be used. The purpose of this proposed amendment is this: Being that a strip of ground is too small or a fraction of the lot is too small to be used, that the adjoining lot ought to be condemned. That ought not to be. We are jealous of taking the property of individuals for public uses except in cases of necessity.

In the case of that piece of property that I have just spoken of, that that three foot strip, why should not the city be able to sell that small strip or lease it on a long term lease to the owner of the adjoining land if he desired to utilize it in making improvements fronting on this street? I think we should be jealous of the exercise of these powers of excess condemnation. We should not permit the property of the individual to be taken beyond absolute necessity unless there is some very good reason for it, and a good reason does not exist in the mere fact that the city might use an adjoining lot to good advantage in utilizing this strip. The city can make a lease or sell it outright or otherwise dispose of it so as to utilize the property to the best advantage and to the best possible interest.

I think it extremely necessary and desirable, in the adoption of this general scheme, that the rights of the individual should be safeguarded and that the city should not be allowed to take except the amount that is absolutely necessary. I do not think adjoining land should be taken for the purpose of enabling the city to utilize to the best advantage any fragmentary pieces it may have on its hands. I am disposed to vote against the amendment, but I am in favor of the adoption of the report of the committee.

Mr. HULL (Cook). I would like to know by what standard the General Assembly, in acting under this section, or the courts, are going to determine what is the reasonable quantity of land in excess of that which is actually to be occupied by the improvement, and as to the necessity for taking such additional land and the quantity to be taken. It seems to me that there should be, if possible, some standard put in there which would be a measure of correctness as to what is the policy that is intended to be pursued by the provision of this section. I take it that we do not want remnants left over of lots not occupied by improvements, unsightly remnants. These remnants will be no less unsightly in the ownership of the municipality than they will be in the ownership of the persons from whom the property taken by condemnation was originally secured, and it would certainly seem to me that the most conservative measure that you could put in would be that the court might authorize the taking of such further land to be added to the remnants as would make those pieces of land usable, and therefore salable. Without some provision of that nature, the General Assembly and the courts are more or less left without direction. It certainly is a public purpose that those strips of land should be improved, and not left as remnants.

Mr. CUTTING (Cook). I don't know whether the gentleman is asking me any question or not. I think an answer is found to his questions in these diagrams. They show remnants of lots here and there. The very objection that he makes now that there is no standard of determination exists in the condemnation or eminent domain law of this State. The court is charged with the duty of seeing that the railroad or corporation does not condemn in excess of its needs, and the same thing applies here. I can well imagine, Mr. Chairman, that the court will exercise its judgment in favor of the property owners, as against the city, in every case, as ought to be done, and I suggest that the suggestion made is not a sufficient reason for giving this additional power.

Mr. MORRIS (Cook). The proposal, as presented, does not, in my judgment, meet the situation, and with a view of doing so, I offer this amendment:

The General Assembly may authorize the State, or any county, city, village or incorporated town, to take in furtherance of any public improvement, by and with the approval of the court as to the necessity for such taking, and the quantity to be taken, a reasonable quantity of land in excess of that which is actually to be occupied by the improvement, but only to the extent necessary to avoid leaving fragmentary tracts as a result of such improvement, such excess taking to be in fee simple, and to hold, sell or lease such excess.

Mr. REVELL (Cook). It might be helpful if I gave a specific instance in connection with this matter, in order that the delegates may have some sort of a picture in their minds to work upon. Of course the principal need for this section comes in the many improvements which the Chicago Plan Commission is making in the City of Chicago, and the incidents I refer to—I can refer to fifteen or twenty—occur throughout the city. But I will take one at the corner of Ohio and North Michigan avenue. There is a strip of land there on the southwest corner about twelve feet wide and one hundred twenty-five feet long, the frontage being now on Michigan avenue. It seems that an arrangement could not be made after a condemnation between the adjoining property owners, and the owner of the twelve-foot strip desired to secure some revenue at once. He has proceeded to build a two-story store building, which is a very cheap affair. It looks like just what it cost, and it is a bad thing in the appearance of a street such as the City of Chicago and the Plan Commission are trying to give the City of Chicago and the people of Illinois when they visit Chicago.

Now, what this article or section of an article, desires to do in that specific instance is to give the City of Chicago that power, so that when the city is left with one of these narrow strips on its hands, it shall have the power to add the adjoining property to it in order to make it of regular proportions and make it regular in appearance.

There are any number of such instances as the one I have cited, and the desire of the Plan Commission of the City of Chicago, in connection with Ogden avenue and Twelfth street and other streets which they intend to improve, is to so provide that a special instance like the one I have referred to cannot occur again, and that the land will be so adjusted as to enable buildings, adequate and commensurate with the dignity and beauty of the street to be erected thereon. Now, the facts of the matter are, as they have developed, that if Chicago had this privilege of further condemnation, the City of Chicago would have made not less than \$200,000 on that one piece of property, and I am sure that at the time it was condemned both property owners would have been highly satisfied, because all the property in that section of the city, from the river to Chicago avenue, has increased two or three hundred percent in value. It is much better for the city if you would pass this section and give the city a chance to do away for all time with the possibility of having these unsightly strips left there, generally for the use of bill-posters.

Directly across the street from the place I have named is another strip, nine feet wide and one hundred and ten feet long, and what to do with that

strip the owners do not know, and the owners of the adjoining property are waiting for an opportunity to get the strip, if they can, at a bargain. This is a much needed thing for the City of Chicago. I sincerely hope the delegates will help the city in this and help the Plan commission.

Mr. DAVIS (Cook). It occurs to me that an erroneous impression might be created in the minds of some delegates as to the reason for inserting a provision which will allow excess condemnation. We have been talking about Chicago and the plans of the Chicago Commission. The experience of Chicago in this matter is not the only reason for that provision in the Constitution. Any number of our municipalities, in trying to improve their streets and trying to plan for the future, may find themselves in the same condition in which Chicago finds itself today, when it tried to put into execution a comprehensive plan of public improvements of this sort. In our Committee on Bill of Rights we have spent hour after hour in discussing the matter, and if I may present the thoughts which were in our minds during those discussions we might find it comparatively easy to agree upon the words to be employed representing those thoughts. We felt that there should be a provision inserted which would make it possible in condemnations to condemn property which admittedly is in excess of the property required for the improvement itself. We wanted to be certain that we placed such powers of condemnation only in municipalities, wanting to make certain that public corporations shall not have at any time the right to condemn property in excess of that amount actually required for the use of a public corporation, and in the cases of municipalities, we also wanted to be certain that our provision is not to be broad enough to allow any municipality under the guise of condemnation to go into the real estate business. With those thoughts in mind, we have a number of phrases suggested. The report of the committee represents the combined judgment of all of us who tried to reduce to writing the thoughts to which I have made reference.

The gentleman from Cook, Mr. Morris, felt that the provision as it left the hands of the committee was too broad and that the limitation which he wanted to put upon the power of the municipality regarding the amounts of the excess to be taken by the municipality was better expressed in the substitute which he presented than was expressed in the report of the committee.

Now, gentlemen of the committee, before everything else we want to make certain that the power is granted to municipalities to condemn property in excess of the amount actually required for the improvement. Any one of us on the committee are willing to join with you at this time to make certain that a limitation is placed upon the power of the municipality, but at the same time we want to be certain that the limitation is not so great as to kill entirely the effect of that power regarding excess condemnation. Now, then, the first limitation upon which we agreed in the committee is that the amount of the excess property to be taken, as well as the purpose for which the excess property is to be taken, shall be left to the judgment of the court, and so we put in the words that the laws which the General Assembly may pass allowing excess condemnation in furtherance of any public improvement must have in it a provision which would make the law or the operation of the law and the amount of the property to be taken and the purpose for which it is to be taken subject to the approval of the court. Now, then, we felt that possibly additional limitations should be put in. The action suggested by Mr. Morris was that, that the amount of the property to be taken shall be only to the extent necessary to avoid leaving fragmentary tracts unsuitable for use as a result of such improvement. The question has been raised whether, with a limitation of this sort, it will be impossible for the legislature to pass laws the effect of which will be that a municipality may be able to take an adjoining tract in its entirety and add it to the fragment. My own opinion is that the General Assembly cannot pass such laws and that the municipality cannot take that much. If, in the mind of anyone, there is a possibility of that sort of a construction some other words might be added. I appeal to you,

gentlemen, not to cripple this provision to the extent of making it ineffective. Mr. Dupee himself has gone into this subject very thoroughly as the legal representative of the City of Chicago and the attorney for the Chicago Commission, which has had especially in charge the work of all these condemnation suits, is very much in favor of the committee reports as amended by the amendment offered by Mr. Dupee. Mr. Morris, who worked here on the committee, thinks that the legislation is not sufficient, and he feels that this substitute which he offers should be adopted.

In my judgment this substitute creates a greater limitation than would be created by the committee report as amended by Mr. Dupee, and along the lines of safety, along the lines of conservatism, I hope that Mr. Dupee will allow us to close the matter by accepting Mr. Morris' substitute for the committee report and for the amendment which he offered. I urge upon you, gentlemen, to vote for this substitute offered by Mr. Morris in the Convention, that you will make it possible for cities to build along permanent lines without running into the danger of letting any municipality go into the real estate business.

MR. DUPEE (Cook). I want to see the power of excess condemnation established in Illinois, and if the language suggested by Mr. Morris is suitable or meets with greater approval than mine I will be glad to see that substitute for my amendment. I therefore withdraw the amendment I proposed in favor of the amendment of Mr. Morris.

MR. MILLER (Cook). If I were sure that this amendment offered by the gentleman from Cook, Mr. Morris, did not mean exactly the same thing as the amendment offered by Mr. Dupee I would be quite content. In other words, I am in full accord with those who believe that the State should have power of domain over the fragmentary lots left by the taking of the lots necessary for the improvement. When the city gets this the city can prevent their use for purposes that will be detrimental to the people of the neighborhood until they can be sold to the owner of some adjoining property at a fair price, and it seems to me that there is no more reason why the cities should not sell the fragmentary lots to the owners of the adjoining lots, no better reason why that should not be done than for the city to buy the adjoining lot and then sell it as a whole. If we authorize that then we are authorizing condemnation of property solely for the purpose of enabling the city to sell to an advantage, and it seems to me when we get into that principle we are going a little bit too far. It would be exactly on the same principle as leaving this just where the committee left it, which would enable a wholly indefinite amount of property to be taken, provided the court thought that was good business for the city to do it, and the court might not be a good business man and he might not think right and we might have gotten into the same position that they have apparently gotten into in London and in Paris and in Pennsylvania, where they took too much. In Chicago, where it is contemplated widening to 100 feet Ashland avenue, extending for many miles; Western avenue, many, many miles; Ashland avenue, many miles long, in addition to the extension of Ogden avenue from Union Park northeast to Lincoln Park, that will become of vital importance. Each one of those propositions involves a vast expenditure of money, and what I am concerned about is the question of getting the city into the real estate business in any one of those actions. What they might lose there concerns me more than what the city might possibly suffer by holding on for a time to a few fragmentary lots, with a prospect of selling them thereafter to the owner of one of the adjoining lots, and that privilege certainly will come in time—that is, the privilege of selling them for what they are worth, not for more than they are worth, and that would not be a very

I suggest that this amendment suggested by Mr. Morris might be made entirely plain so as to meet the views of the gentleman from Cook, Colonel Davis, by adopting the following:

Amend the substitute by striking out the words "but only to the extent necessary to avoid leaving fragmentary tracts as a result of such improve-

ment" and inserting in lieu thereof the following: "But only to the extent of fragmentary tracts."

Mr. DAVIS (Cook). I wonder if the experience of other cities might not be used by us as a guide to designate the particular feature of the amendment dealing with the amount of land taken. In Massachusetts, New York and Rhode Island the amount to be taken is limited to building sites, and the original amendment as presented to our committee used these words trying to benefit by the experience of other states. In Ohio there is no limitation at all placed upon the amount to be taken. In Wisconsin the amount of land is restricted to lands in and about the property to be taken. The only limitation there is that the excess land to be taken shall adjoin the land to be taken for the improvement. I am quoting from the constitutional provisions of those states. When we discussed the matter in committee, I was among those that felt that in all of these states there was a lack of limitation upon the powers of the legislature to pass those laws, and I was among those who were not as willing to go quite as far as those states have gone, but I want to be very certain that we do a full job, if we do one at all in the matter of excess condemnation, and I fear that the amendment which was offered by the gentleman from Cook, Mr. Hamill, is placing a limitation which may kill entirely the effect of the additional powers which we are trying to confer upon the legislature, which, in turn, may confer those powers upon the municipality. I wonder if we won't do better if we just revert to the result of the immense hours and days of labor of the committee and stand by the committee's report, which, I will admit, is not as wide in its application, as far as the authority of the municipality goes, and not as wide as Mr. Dupee would want it, and it is a little lighter than the limitation of the amendment as offered by Mr. Miller. I would like to suggest at this time that the substitute of Mr. Morris, as amended by Mr. Miller, will possibly kill altogether the effect of the power of excess condemnation. But since there is a tendency, in which I join, to make certain of the powers of the municipality self-limiting to some extent, may I suggest at this time that the best way out of the difficulty would be to revert to the committee report and adopt that in place of all the substitutes which have been offered.

Senator Hull says don't do that. Senator Hull thinks that the committee report ties the hands of the municipality to a greater extent than he is willing to tie them. That is the opinion of Mr. Dupee and that is why they are in favor of the amendment that the ground taken shall not be more than an amount suitable for building lots.

I am perfectly willing to stand for the committee report. This report is a result of the many different suggestions that have been presented to the committee, and we are going through here a repetition of what we had in our committee meetings, the difference of opinion as to the extent of the limitation to be put upon the municipality, and we asked ourselves the question whether the matter would not be disposed of satisfactorily by putting it right up to the courts and letting the courts in each instance pass upon the two questions, the advisability of taking land in excess of the actual amount required for the improvement and the amount of that excess land to be taken, and let it go at that.

Mr. MILLER. It seems to me that the committee report and the amendment offered by Mr. Eugene Dupee and afterwards withdrawn, and the amendment offered by Mr. Morris all means substantially the same thing, to-wit: that more than the fractional land remaining may be taken, and it is just that point that I fear, and that was the reason for my suggesting the amendment to Mr. Morris' amendment. If there is no danger of leaving it open that wide to the legislature, then, of course, I was wrong. I fear, in view of these vast improvements, that there is danger.

Mr. DAWES (Cook). I would like to say, Mr. Chairman, that there is, among the delegates of this Convention, a very sensitive feeling about the invasion of private rights. The preamble which we have adopted today declares that the purpose of this Constitution is to promote the general

welfare and to secure the blessings of liberty to ourselves and posterity. In the matter of condemnation of private property we come to the conflict between the public welfare and private rights. The very art of government consists in adjusting private rights to the interests of the people. The Constitution of 1818 provided merely that where land was taken from individuals for public uses just compensation should be given. The Convention of 1848 reiterated that same policy. Between those periods there had been no changes in the habits of the people. The most significant change had been the transfer of government lands into private ownership. The Convention of 1870 very greatly enlarged the authority of the people to take the private property of individuals. I presume that those who sat in the Convention of 1870 thought that never again would such changes be brought about in such a short period as were brought about between 1848 and 1870. The railroads and telegraph had taken the place of the most primitive forms of transportation and communication, and these changes had brought about necessity for a change in this fundamental relationship and the adjustment of private rights of property to the public welfare. We now face a situation in which similar changes are taking place. The City of Chicago is a city of which the people of Illinois are proud. In a controversy out of all proportion to the difference of opinion that it generated, there has been one happy result. It is this: that over and over again upon this floor, and in private conversations, delegates from down the State have expressed their intense desire to do for Chicago whatever Chicago wants. Chicago is beautifully situated, with its curving shores along the lines of that wonderful lake, and after the World's Fair in 1893 Chicago painted a picture for the future. It devoted itself to the work of making Chicago beautiful. It laid the foundation of that wonderful plan and my friend and colleague, Mr. Wilson, bore an honorable and prominent part in the enormous economic, hygienic, aesthetic and humanitarian improvement of that city. Every city in the world has seen and admired that plan, and many of them have followed it. It is not the population of Chicago that makes it great; it is not its teeming factories and varied populace. It is something in the character of the city itself as you see it, and all Americans are proud of it. Among modern cities it is the only example of a city that has taken to itself an ideal for future perfection, and has adhered to that ideal for twenty-five or thirty years. If you want to know what the City of Chicago wants, consider its patient, persistent, persevering effort to which it has adhered for these many years. The Chicago plan is the most conspicuous example in this country of that persistence of purpose. Twenty-five years after its adoption at a time when the demand for public funds was large—this year—we dedicated thirty million dollars for the carrying out of that plan. It is a thing that is most gratifying to every loyal citizen of the City of Chicago, and, I have no doubt, to every citizen of the State of Illinois.

Now we come down to this question of the modern day, the adjustment of public interests to private rights, and what is asked and recommended by this committee is the absolute minimum of what is necessary to carry out projects of this kind. When a street is laid out, especially a diagonal street, or a street is widened, there are necessarily left fragments of lots, and the effect of those fragments is not to beautify the city. The whole purpose of the expediture is, in part, nullified by these very fragments. The purpose of those who are interested in the Chicago Plan Commission is not to sell property and make money for the city. Every precaution that the committee thought necessary to guard against that very thing was written into the proposal that was submitted to you. The purpose of it was to prevent disfigurement of this property by these fragments of lands of all kinds and shapes, sometimes such as those as have been described to you, sometimes triangular in shape, and the remedy for it was placed in the hands of the courts, so that in those cases where it was necessary to carry out the purposes of the improvement, namely, the beautifying of the street, and the accomplishment of all the purposes that are in view in this great effort—the

court might provide that the lot should be used as a park, it might provide for the condemnation of enough additional land to make an additional building lot, and it seems to me that in view of the difficulty in which we are involved whenever we endeavor to specifically state the exact remedy in the Constitution, we met that difficulty by submitting it to judicial determination. That is the reason, I think, as Colonel Davis has told us, that the law adopted in the other states provided that land sufficient to create a building lot may be condemned, and that in three states there was no attempt to specify how much should be taken.

It is my judgment, from the attention I have paid to this matter, that to give to the city the power to merely buy these fragments would be of no benefit or value in carrying out this enterprise, and I do believe, after having to make discussion of this matter, that the words adopted in the proposal of the committee are calculated to enable the city to take a step toward the carrying out of this plan. I hope that the amendment submitted by my friend and colleague, Mr. Miller, will not be adopted by this committee.

(Amendment lost.)

CHAIRMAN RINAKER. The question now is upon the provision as amended by the motion of Mr. Morris.

Mr. BARR (Will). I just had one thought in mind with reference to the words "unsuitable for use." It occurred to me that a three-foot strip might be held to be suitable for use. Might that not be withdrawn, Mr. Morris?

Mr. MORRIS (Cook). Yes.

CHAIRMAN RINAKER. All right. It occurred to me that in the completed portion of a city the words "fragmentary tract" might not be objectionable or difficult of construction, but if the improvement was outside of the completed portion of a city, it might be difficult of interpretation. You might leave a fragmentary tract of a forty-acre tract of land.

Mr. WILSON (Cook). I had rather hoped to say nothing here because I am a member of the executive committee of the Chicago Plan Commission. In connection with Charles D. Norton and Frederic A. Delano I was one of the three instigators of the Chicago plan in the order named. I was the treasurer and chairman of the finance committee for many years. I have had a lot of experience, privately and publicly, in this matter. I rather stand now at the present time with Colonel Davis. If there is any doubt about the advisability of any of these amendments I should prefer to stand upon the report of the committee. If those amendments are to be voted upon, I hope that they are thoroughly understood. My connection with the committee is not a private matter; it is a matter of public concern.

Mr. REVELL (Cook). I hope that the amendment of Delegate Morris will be voted down. If you will revert for just a moment to the specific plan for instance that I gave you you will see at once that nothing at all would have been possible to be done with that property. Beyond that strip of lot running 125 feet on Michigan avenue 12 feet deep is a building about 60 feet wide and 125 feet deep. The building is three or four stories high and occupied. That certainly is not a fragment of property and for that reason it may not be included if you put Mr. Morris' amendment into the Constitution. The hands of the City of Chicago would be tied so far as that piece of property is concerned. I think that one instance is sufficient to show you that you are not giving the City of Chicago what it asks. What it asks and what will be of benefit to it is the report as brought in here by the Committee on Bill of Rights.

(Amendment lost.)

Mr. REVELL (Cook). I now move the adoption of the section.

(Motion prevailed.)

THE SECRETARY. The next section is Section 14.

Mr. MILLER (Cook). I move its adoption.

Mr. CARLSTROM (Mercer). I move to amend Section 14 by adding to line 1 after the word "contracts" these words "including municipal contracts, franchises and licenses."

I think the delegates understand what this amendment is sought to be introduced. I think the matter was fully discussed the other day and I do not wish to take time in repeating the argument. I do believe if there is any virtue in forbidding any law to be passed to impair the obligations of a contract, it should apply to all contracts. I respectfully suggest that the amendment should prevail.

(Amendment lost.)

CHAIRMAN RINAKER. The question is now upon the adoption of Section 14 as reported.

(Section adopted.)

THE SECRETARY. Section 17 is next.

Mr. MILLER (Cook). I move its adoption.

Mr. SUTHERLAND (Cook). I should like to ask the reason for the very peculiar language—at least it seems peculiar to me—in this section. “All elections shall be free and shall be equal, except as may be provided by other provisions of this Constitution.” Why is that in there, and what possible provisions would we want to make in this Constitution which would deny equality of elections?

CHAIRMAN RINAKER. It has been suggested in the discussion of some subjects before this committee, which possibly I need not name, that they would or might be held to be in conflict with this section, and in part, at least, it is for the purpose of meeting any such objection that this language is used.

Mr. MILLER (Cook). Before voting on it I should like to be further informed as to that.

CHAIRMAN RINAKER. I refer to the restrictions on Cook county.

Mr. SUTHERLAND (Cook). I thought possibly that might have been the idea. I am a little surprised that it should have been and I, for one, would like to see that language stricken out, and I would like to see it done, Mr. Chairman, for this reason:

I thought and believed confidently that fairness and fair-mindedness on the part of the gentlemen who make up the majority in this Convention—I speak now of the gentlemen from down State—would result in a fair compromise and a fair adjustment of the representation question between Cook county and the balance of the State, and, Mr. Chairman, I would resent the thought that any adjustment that I would sanction with my thought in this Convention and with my voice in urging the ratification of this Constitution after this conference had adjourned could be branded by anyone as unequal in the meaning of that term. I feel that what is done by this Convention will effect substantial equality as among the citizens of this State and as between the various sections of this State, and if it is anything other than that then I do not want to support it or support the Constitution of which it is a part.

It seems to me, Mr. Chairman, that it is a mistake to put this language in. I move you, Mr. Chairman, that we strike out the words “except as may be modified by other provisions of this Constitution,” because, Mr. Chairman, I am willing to take my chances, no matter what the delegates of this Convention do, that it will be what I can term and what we must all term, in self-defense and self-respect, equal and just in all matters pertaining to elections in this State, and I hope the amendment I offer will prevail.

Mr. MILLS (Macon). I offer an amendment as a substitute:

“All elections shall be free, equal and honest, and the General Assembly shall provide by law for the secrecy of every legal ballot and for the deduction and rejection of every illegal ballot cast at all general and special elections in the State of Illinois, and shall also provide by law for the disfranchisement of every election officer or other person found guilty of violating any of the election laws of the State of Illinois. The election franchise may be exercised by both men and women citizens.”

Mr. MILLER (Cook). I move the insertion of the words “except as herein otherwise provided” after the word “honest” in the substitute just now submitted.

Mr. DAVIS (Cook). I rise to a point of order. An amendment offered at this time by way of an amendment to the pending amendment is certainly not germane.

CHAIRMAN RINAKER. I understood it was offered as a substitute for the entire section.

Mr. DAVIS (Cook). Let us vote on it then.

Mr. MILLS (Macon). The weakest link in the chain of our State organization is its election laws. Many pernicious practices have grown up under the protection of the secrecy of the ballot and the protection that is ostensibly thrown around the ballot and the ballot box, but you know, and so do I, that the elections are not free and equal and honest. We have now an endless chain. What do I mean by an endless chain? I mean that some fellow gets an official ballot from some judge or some officer prior to the opening of the polls, and he takes that ballot as it is marked on the outside of the booth and takes it in with an agreement to get another ballot from the judge and go into the booth and mark the ballot that he brought into the booth from the outside and bring the other one back to the boss and get his money, and thus the endless chain goes on during the day. That is known in common parlance as the endless chain.

Mr. TRAUTMANN (St. Clair). I would like to ask whether the gentleman is referring to practices of that sort in Chicago or in Decatur?

Mr. MILLS (Macon). I am not only talking about practices in Chicago, but Decatur and Springfield and in many other cities in this State.

Mr. DEYOUNG (Cook). That cannot be possible.

Mr. MILLS (Macon). Oh, I know some things, and I have heard delegates every week discussing this question. Now, gentlemen, these things are unfair, and if they shall be permitted then of what use is your election law? I concede to every voter the same right that I claim for myself. I claim the right to vote as I please, and I want my vote to be counted exactly as I cast it, and I do not want anybody to substitute any other ballot for my ballot, nor do I want him to put another mark on my ballot than the mark I put on myself.

I have had some experience along political lines. I remember many years ago, before we had the Australian ballot, in a certain precinct in Macon county there was a hot contest for supervisor. They knew every voter would vote, and the voters came up and voted and the judges when they came to count those ballots found little crooked marks across the name of the candidate for supervisor. That raised an inquiry as to how those marks got on there. The candidate whose name was marked that way made a canvass of the district and had a statement signed by every party man of that party that he had voted for this supervisor without a single mark upon the ballot. Then a contest was made and a question arose as to the secrecy of the ballot. Counsel made the point that it must be honest before it should be secret, and when they opened the boxes they found those ballots in that condition and then those voters came in and testified. As a result, the defeated candidate was elected and the one ostensibly elected was defeated and the grand jury indicted one of the judges for marking those ballots. No one saw him mark the ballots, or any of them, but he was the only man who handled them. If you will look me in the eye you cannot see what I have in my hand.

And I want to say something more. I don't know that this substitute or amendment will meet the question or cure the trouble, but all I want is the consensus of opinion of this Convention so that elections in this State shall not in the future be as slipshod and as crooked as in many cases they have been.

(Motion lost.)

Mr. BARR (Will). I intended to make a motion to strike out the words "except as may be modified by other provisions of this Constitution." That amendment has already been offered by the gentleman from Cook. I can see no purpose in having this language inserted in this section. If there is any question in the minds of the gentlemen in other parts of

the State that any provision in any other part of the Constitution may be made voidable by the fact that such a provision is not inserted here, I just want to suggest that the specific provision in the other article would control over the general provision in the Bill of Rights, so that they may be perfectly content and satisfied that it will be effective and, therefore, I feel that it is perfectly safe to have these words stricken out. I make that motion.

Mr. HULL (Cook). I would like to ask the chairman whether, in his judgment, it is necessary to insert the words "except as herein otherwise provided" in order to square this provision with the proposals to restrict the representation of Cook county?

CHAIRMAN RINAKER. I do not. The question is upon the motion of Mr. Sutherland, to strike out the words just mentioned.

(Motion prevailed.)

CHAIRMAN RINAKER. The question now is upon the section as amended.

Mr. HAMILL (Cook). May I inquire the purpose of the concluding clause of the section, "and the elective franchise may be exercised by both men and women citizens?"

CHAIRMAN RINAKER. I know of no special reason why it should be included except that it was part of the proposal presented by the Woman's Club of Chicago.

Mr. HAMILL (Cook). The suffrage article has already provided for that. I move that it be stricken out as surplusage.

(Motion prevailed.)

Mr. GREEN (Champaign). I move, as a substitute for this section, as it now stands, that we adopt Section 18 of the the old Constitution, that "All elections shall be free and equal."

(Motion prevailed.)

CHAIRMAN RINAKER. The question is now upon the adoption of the section as amended.

(Motion prevailed.)

THE SECRETARY. The next is Section 19.

Mr. HAMILL (Cook). The first clause of this section is a reproduction of the same words in the present Constitution. It is a good, sound platitude. It does not lay down any rule for the government of the State. It is a perfectly honest statement that we all entertain, but it seems to me that it does nothing except take up space in the Constitution. There can be no strenuous objection to its being retained, but it seems to me that it would be good draftsmanship to leave it out. The rest of the section as drawn seems to me unwise. "The republican form of government shall never be abandoned, modified or impaired within this State." That merely repeats what the Federal Constitution guarantees. There is no occasion for putting into our Constitution that which lies in the fundamental law which we cannot depart from if we choose. "The State is and shall remain representative in its system of government and not a pure democracy." That states a legal conclusion. The form of government will be what the Constitution provides, and no statement in this section could alter it nor may we say that it will always remain so when we provide a means of amendment. We are saying two things in that concluding clause, one is a legal conclusion as to what our Constitution forms, and we cannot determine what that is, and the other is a proviso by which we deny to future generations the right to amend the Constitution, and I assume that when the committee of which I have the honor of being a member gets ready to report it will report on the matter of amendment.

I move you that the matters be taken up separately, and I move now that the section be amended by striking out the final sentence, which reads: "This State is and shall ever remain representative in its system of government and not a pure democracy."

(Motion prevailed.)

Mr. HAMILL (Cook). I now move to strike out the second sentence, which reads: "The republican form of government shall never be aban-

doned, modified or impaired in this State," for the reasons stated in my opening remarks.

Mr. LINDLY (Bond). I think that that ought to remain in the Constitution. It only takes a line or two and it is something good for the children or anybody who reads the Constitution to remember that the Constitution of the United States guarantees to us a republican form of government, and I think it ought to stay there.

(Motion lost.)

Mr. LINDLY (Bond). I move that the section be adopted as amended. (Motion prevailed.)

THE SECRETARY. Section 20 is next.

Mr. FIFER (McLean). It seems to me that section ought to come out. The State Constitution is an instrument of limitation, and the Supreme Courts of the State have repeatedly held that the Constitution casts upon the General Assembly all the legislative powers that the people have in their original capacity, and that is done by the first section in the legislative division, if you will turn to it. They can do this and they cannot do that. You take the entire bill of rights. It is a limitation upon the power of the legislature, and if we had passed the first section under the legislative division of the Constitution and stopped I can see no reason why the General Assembly of Illinois could not properly act unless prevented by the Constitution of the United States.

Now, the Constitution of the federal government is an instrument of delegated power. It is a mere cistern. There is nothing in it that has not been put into it by the people of the several States. The Congress of the United States can enact laws in accordance therewith, and all the powers that are not delegated are reserved to the people of the several states. I can explain that better possibly in this way: When the General Assembly comes to pass a law they look into the State Constitution to see if the power or the right has been denied; when the Congress of the United States comes to enact a law they look into the Federal Constitution to see if the power has been delegated. One is a cistern and the other is a river. Every section of the bill of rights and other parts of the Constitution limits the legislature, and it seems to me that this section has no place in the Constitution of the State and ought to go out.

Mr. GREEN (Champaign). Will the chairman kindly inform us what the purpose of that section is and what meaning or understanding attaches to it?

CHAIRMAN RINAKER. So far as the amendment is concerned, I do not understand that it affects in any way the matter of legislation or the delegation of legislative power or the limitation of legislative power. I do not know of any meaning that would attach to it except that if there should be a question arising in which rights were claimed by citizens that are not specifically mentioned in this bill of rights that those rights would not be for that reason denied to the citizens. I do not see anything in it that would go further than that.

Mr. GREEN (Champaign). Do I understand that the delegate from McLean has made a motion that this be excluded?

CHAIRMAN RINAKER. Yes.

Mr. GREEN (Champaign). It seems to me that the Governor's argument is entirely sound. The Constitution is supposed to guard the machinery of government and all legislative power is reposed under the general power. The judicial power is reposed somewhere else and the executive power somewhere else, and we, the people, by this Constitution, if I understand the republican form of government, are intending to impose and devolve upon the various departments—three of them—all of the functions of government except any individual rights which the individual citizenry has retained by express language in the Constitution, and the failure of the legislature to act upon any matter is in no sense to be construed as creating any paramount right in the individual simply because it has not found expression in the Constitution or in a statute, and it does seem to me that this section is entirely inconsistent with the theory of

the governmental system which we set up by the Constitution. In other words, the citizen is denied full rights. It is denied to the citizen that he retains any rights which are paramount to the rights of the three departments of government or the powers of the three departments of government or the rights as they may be defined by these departments of government. He retains no special rights except those which he expressly retains in the Constitution.

It seems to me that this section will lead to the greatest confusion in the courts as to whether or not the failure of the legislature to speak or of the court to act in any given matter might be construed to invade some private right or might be construed to prevent the government functioning in some way that the individual citizen contended violated some right delegated to him. It seems to me it is wholly inconsistent with the theory of the Constitution.

(Motion prevailed.)

The SECRETARY. The Committee on Bill of Rights reports back to the Convention Proposals 129 and 136 with the recommendation that they pass.

Mr. HAMILL (Cook). I move that the committee do now rise and report progress.

(Motion prevailed.)

(President Woodward in the chair.)

Mr. RINAKER (Macoupin). The Committee of the Whole, having under consideration the bill of rights, reports progress and asks leave to sit again.

Mr. HAMILL (Cook). I move the Convention do now adjourn to tomorrow morning at 9:00 o'clock.

(Motion prevailed.)

Whereupon the Convention adjourned to Thursday, July 1, at 9:00 o'clock a. m.

THURSDAY, JULY 1, 1920.**9:00 o'Clock A. M.**

Convention convened pursuant to adjournment.

The President in the chair.

Prayer by the Chaplain.

THE PRESIDENT. The Journal of Tuesday, June 29th, 1920, has been placed on the delegates' desks and is now subject to correction. There being no corrections proposed, the Journal of Tuesday, June 29th, 1920, will stand approved, and it is so ordered.

Mr. MOORE (Macon). A lot has been said about the character of the delegates to this Convention, and I would like to take this opportunity to call the Convention's attention to the fact that we have one delegate at least who has been the recipient of a great honor at the hands of the State. I refer to the delegate from Cook county, General Davis, who has lately been promoted to that high office.

PRESIDENT WOODWARD. Some time ago the Convention appointed a committee which authorized the appointment of a committee to edit the proceedings of the Convention. That committee reported a course of procedure to be followed by the delegates to the Convention with respect to the correction of the debates, as such debates are to appear in the permanent proceedings of this Convention.

The chairman of that committee reported to the President on yesterday that a revision of the printed proceedings is now being held by that committee, awaiting action of a number of delegates with respect to correction of the copies. Under the rule reported by this committee and adopted by the Convention, a period of ten days was allowed the delegates for the delivery to the chairman of the special committee of the corrected copy of the printed proceedings.

The chairman advises the President that the printed proceedings up to and including those of May 13th have been on the desks of the delegates for over ten days, or at least ten days. The chairman further requests the President to call the attention of the delegates to the fact that if there are any corrections to be made in the proceedings or debates up to May 13th that the delegates will kindly confer with the delegates on this committee at once, in order that the proceedings may be printed in permanent form.

Mr. CLARKE (Lake). As to the procedure, I would say that the proof is read over very carefully, and where there is any question as to what has been said, that is called to the attention of the chairman. Where there is any question in his mind, he consults with the delegate as to just what was said.

PRESIDENT WOODWARD. The Convention will resolve itself into a Committee of the Whole and I will appoint Delegate Rinaker to take the chair.

(Chairman Rinaker presiding.)

CHAIRMAN RINAKER. The committee will be in order.

(Whereupon Proposal No. 129 was presented to the Committee of the Whole for action.)

Mr. GREEN (Champaign). That proposal I introduced. I have been requested by different delegates on the floor to consider some amendments to that proposal in its present form, which appeal to me. There is a lot of business demanding the attention of the Convention and I would prefer not to take time this morning to discuss this proposal. I did not know that there is anybody especially interested in prosecuting this discussion,

and I ask that it be deferred and it can be taken up at any time. I make that request if it is agreeable to the chairman of the committee.

Mr. REVELL (Cook). May I ask that it be read?

Mr. DAVIS (Cook). I move the consideration of this matter be deferred to some subsequent hearing.

Mr. REVELL (Cook). Is it your intention to bring this matter up before the summer recess?

Mr. GREEN (Champaign). If opportunity is afforded, but I would like to have an opportunity to discuss the suggested amendments with the gentlemen who have them.

CHAIRMAN RINAKER. The question is on the motion of General Davis that consideration be postponed for the present. I would say that I had some consultation on the subject, and personally I accede to the propriety of the suggestion of the gentleman from Champaign that this is a matter which should be discussed thoroughly and at some length, and at this stage of our proceedings it seems to me we had better occupy ourselves with other matters.

(Adopted.)

Whereupon the Committee of the Whole went into a consideration of Proposal No. 136.

Mr. GEE (Lawrence). I want to offer an amendment to that, and I move its adoption.

Amend by striking out, in line 4, the words "doing anything" and insert "any legal rights" in lieu thereof.

Mr. MORRIS (Cook). A point of order. That the amendment is not in order until a motion has been made to adopt the original proposal.

CHAIRMAN RINAKER. I think the point of order is well taken. What will you do with the proposal?

Mr. MORRIS (Cook). I move its adoption.

Mr. GEE (Lawrence). Now I offer the amendment which has been read.

This proposal just came to my notice. I think it would be a wise idea for us to study it a little bit more. I think it has been reported out only a short time. The language "doing anything" is very broad, indeed, and I think we would be better off if we postponed the amendment to some subsequent day. I move to postpone further consideration at this time in the Committee of the Whole.

Mr. REVELL (Cook). Is it, then, your mind to bring this matter up for action and discussion before the summer recess?

Mr. GEE (Lawrence). No, sir. I would be glad to have it go over until after the recess. It is a matter that I think the delegates here ought to take the views of their constituents at home on to some extent. I would be glad to have it go over until after the recess.

Mr. REVELL (Cook). Is this matter open for discussion?

Mr. SUTHERLAND (Cook). I move the debate be closed.

Mr. REVELL (Cook). We are now coming pretty close to the values there are in the present situation.

Mr. SUTHERLAND (Cook). I move the debate be closed.

Mr. REVELL (Cook). And especially to table all motions.

Mr. CORCORAN (Cook). A point of order, Mr. Chairman.

CHAIRMAN RINAKER. The gentleman from Cook, Mr. Revell, has the floor.

Mr. REVELL (Cook). Mr. Chairman, I hope that we will be fair regarding these motions to table or close debates. We have been here seven months and listened to nearly all the delegates who wished to talk on any subject at any length. After the debate yesterday in connection with adjournment it does not seem to me in good form to attempt at this late hour to cut off anyone wishing to talk on any subject.

When the question of adjournment was up yesterday one of the gentlemen who spoke in opposition to adjournment gave you as an argument, I suppose, that it might be because one of the members desired to play golf. Well, inasmuch as when my distinguished colleague cracks a joke

he never cracks a smile we did not know whether or not he was serious. Another one of the delegates, Judge McEwen, indicated it was probably because—and might be in his case—of the attractions of the old swimming hole. He brought tears to my eyes and I visualized Whitcomb Riley's "Knee Deep in June." He is certainly making a great sacrifice if in his case he is missing those wonderful pleasures of youth such as he described.

But it remained for a third opponent of adjournment to add the real plea and cry. It appeared to him that it would be cowardly. Yes, cowardly was the word—to refuse to face the work that is before this Convention and complete it in its first reading, and refer it to the Committee on Phraseology and Style.

Mr. MORRIS (Cook). I make a point of order; the point of order is that the gentleman's remarks are in no wise germane to the question before the committee.

Mr. REVELL (Cook). I will show you that my remarks are germane.

CHAIRMAN RINAKER. The Chair is unable to determine at this time. These are merely introductory remarks. Get to the point as early as possible.

Mr. REVELL (Cook). The point is, in that debate those who favored adjournment desired to transfer all these real controversial questions to a time after we convene in the Autumn. Now we find that yesterday within a few hours after that motion to adjourn was defeated by an overwhelming majority, the question of the reading of the Bible in the public schools was passed without debate and deferred to the Autumn. Another matter transferred to Autumn yesterday, and today comes this matter which is deferred to Autumn, which means practically that while the cowardly portion of this Convention was willing to transfer them all in one group, the others are now willing to transfer them singly.

I appeal to you if we passed this motion yesterday in sincerity and fairness, that we go ahead and take up these various questions and meet them in the brave way represented by the braves yesterday, and not transfer them to the future.

The statement was positively made that the people of the State of Illinois would have a chance in the next few months to know what we were going to do. What do we find? That the permission for the reading of the Bible is apparently indorsed, and yet the intimation comes at the same time that the debate on the merits will come in the Fall, on second reading. Gentlemen, that is not fair. If you are going to take the same method with the initiative and referendum, home rule, revenue and other questions coming up, it puts you in the same cowardly place you endeavored to place the few proponents of the adjournment yesterday. I am in favor of the going ahead, meeting this and all other questions face to face, and now.

Mr. SUTHERLAND (Cook). I move debate be closed.

CHAIRMAN RINAKER. The question is on the motion of the gentleman from Cook, Mr. Sutherland.

(Motion lost.)

Mr. MORRIS (Cook). The insertion of the words proposed by the amendment will take what for want of a better term may be said to be the very heart out of the proposal.

Under the proposal as reported by the committee, the General Assembly of this State would be prohibited from passing any law making a distinction between citizens because of race. Under the amendment, they would not be so prohibited, and the words of the proposal would almost be meaningless. That is, if you insert "No person shall be prohibited from exercising any legal right." Of course the General Assembly designates what is and what is not a legal right, and you can readily see that they might pass a law in favor of Jim Crow cars, they might pass a law in favor of segregation, and if they did they would not be in conflict with anything, because those things would establish the legal right, and you would have accomplished absolutely nothing.

Now, I had hoped, and I had hoped very sincerely, that the proposal would so commend itself to the considerate judgment of a large majority of the men of this Convention that there would be no occasion whatever for any extended debate.

I do not understand, and probably it is because of my extreme obtuseness, how any fairminded man worthy of citizenship in the State of Illinois can object to making legally equal—now I emphasize the words “legally equal”—all citizens of the State of Illinois. I would rather go out of this Convention to a certain death than I would to strip myself of the manly feeling that I have ever entertained for my brother man, whether he was white, black, red or any other color. There has never been a time, and I trust there will never come a time in my humble career, when I shall be unwilling to accord to other citizens of this State, and to every citizen of the United States, absolute equality before the law.

And now I think it is almost a shame and a disgrace in this State of such eminent men as Illinois has produced, for any man to be required in a Constitutional Convention to stand up and plead for the passage of a measure which is so manifestly consistent with all our proclaimed ideas of right. And it ought not to be necessary. I am asking for nothing in this proposal that I would not be willing to grant every other citizen of the State.

I simply desire by this proposal to prohibit, because I cannot look down the avenue of the future forty or fifty years and tell what may take place, I simply ask for this proposal that every General Assembly that shall gather in the State of Illinois shall be prohibited from passing any law that will segregate citizens because of race or color or which will be applicable to citizens solely of one race and not applicable to citizens of another.

Is there a man in this Convention who wants to be on one elevation and wants to put his neighbor or fellow citizen on a lower? Aren't you willing to stand under the same broad, bright canopy of the law that you require every other citizen to stand under? I am.

I ask for no special rights in that proposal. I simply ask that every General Assembly shall treat them exactly as they treat you. Can I be fairer? Do you want something more than that? Is there any need for anything more than that? Can it be said that you are weak and need be put above some other poor, downtrodden race to make you great? You don't need that. You are the so-called superior race anyway. Are you afraid of someone else because you give them the same rights under the law, because you prohibit the General Assembly from doing anything to them that they would not do to you, the other race will catch up with you? Great Heavens, there is no danger of that. You are not afraid of that, and yet that is exactly what you are going to do by this amendment, to make the whole provision meaningless.

“Shall not be prohibited from exercising any legal right.” And yet you leave it to the General Assembly of course to designate what this legal right is.

Now, we ought to be frank and manly about this. I am not ashamed in the slightest of being a man of color. I glory in the fact that I am. Proud of the history of my own race. Proud of the various accomplishments of my race. Proud of all the things that gather around and about them, and I have no apology to make because of my color. I would not be otherwise if I could, and there is no doubt about that in my mind at all, and any one acquainted with the history of the colored race will have occasion to be doubly proud of it.

I did not want to talk about these things, but I am prepared to do so. From the earliest times, the men of the black race have played their part. I don't refer especially to the history of these United States, but to the history of the world; away back we begin with the mythological period, the Ethiopians gave to the world the alphabet. Every reader of history knows that. Agenos was an Ethiopian, and he was the father of Cadmus, and Europa was his sister. And it is said, according to mythology, that some one of the gods went off with her, and Cadmus was sent to find her, and

told not to come back without her, and he went away and he carried over there to these Egyptians this alphabet of sixteen words. No reason why a man with a black skin should be ashamed of that history.

Moses married twice at least. His first wife was an Ethiopian, and his second wife was an Ethiopian. Don't let us make any mistake about it, and think I am talking out of the air. We have talked a good deal about reading the Bible, and I would be glad to have the children in all of the schools read Chapter 12 on Numbers, Verse 1, wherein it is written: "And the anger of the Lord was directed against them, and he made Moses the ruler." Anything for anybody to be ashamed of about that? One day not long ago in the debates before this Committee, one of the most learned and intelligent gentlemen here referred to Alexander Hamilton and said he was a great man, and to Alexander Hamilton we owe much, yet if Alexander Hamilton were alive today, they would put him in a Jim Crow car, because Alexander Hamilton was a man of color. There is no doubt about that. In corroboration of that, they are referred to the remarks of Senator Lodge, one of the most learned men who has ever graced the senate hall; when they asked him about this matter, he said "I am not loath to have it understood that I understand who Alexander Hamilton was, but in my remarks of him and concerning him I will travel along the beaten path, but let no man misunderstand."

Senator Burton said, "The world is indebted to the ancestors of the negro for the alphabet, the very foundation of the present civilization."

Any reason why anybody should be ashamed of making the black citizen a citizen and then declaring him equal by the law?

Alexander Bushkin was the greatest poet Russia ever produced, if we believe in the Britannicus Encyclopedia, and those who have sent it out. And Alexander Bushkin was the son of one of the blackest Africans that ever lived. He inherited his curly hair and dark skin from his ancestors. Anybody think I am ashamed of being connected in any way with a man of that sort?

Only the other day they spoke of putting Frederick Douglas in the Hall of Fame. One of the great newspapers of this country said, "If we put him in, we must put him in as a white man," and I haven't any question but what when he goes in, one hundred years from now everybody will say that old Frederick Douglas was white, because that is one of the natural proclivities of mind of the Anglo-Saxon brethren, to grab all of the good things in sight, but I don't blame you. But do not grab all of the things under the law, give us standing ground and we will endeavor to do the rest.

It is just a question of conferring legal rights, simply a question of saying to the General Assemblies that may gather in this State in the future, "You shall not do certain things." It was well said the other day by the learned gentleman from McLean that the Constitution ought to be a limitation of the powers given to the General Assembly, and unless that limitation is put in, why the General Assembly may do absolutely as it feels. So that we reserve nothing to ourselves except that which we prohibit the General Assembly from doing.

Is it possible with the learning and with the intelligence individually possessed by the men of this Convention that there can be any real serious debate on the wisdom of inserting a provision of this sort in our basic law? Is it wrong? If you believe in the legal inferiority of certain men because of their race or color, then of course you ought to vote against this. There is no doubt about that. If you are imbedded and rock-rooted in the principle that there always ought to be laws passed to keep the man of color down and discriminate against him, then you ought to vote against this amendment. But if, on the contrary, you are willing to open the gate and say to them legally, "We will give you every right that we possess, make your way," you will vote for it. Aren't you willing to do that? Anything wrong about it? Do you want a fair and square deal when you are trying a lawsuit? Do you want a fair and square deal? When you go out anywhere in the world, aren't you willing to give them to everybody else? There is no dan-

ger of the General Assembly, you may say, doing this or that thing, that for fifty years they have failed to do. That is true, but times change and so do men.

The State of Illinois is not adhering strictly to the principles announced by the immortal Lincoln, they are drifting and getting away from them, and I am afraid some day when I shall have passed away, because it won't affect me, I am afraid some day somebody will come with a hue and a cry and clamor and ask the General Assembly of the State to pass laws permitting segregation, permitting the Jim Crow cars in certain sections of the State, and prohibiting certain other things against men of color, and I want this Convention to say, if it will, to say "Thou shalt not do it."

I could go on and talk and say a great many other things, but what is the use? I could refer to dozens of historical characters. I could pick out Josephine, the wife of Napoleon, who was a Creole. I could talk about Judge Wright, a man much blacker than I am, who was judge of the Supreme Court of South Carolina, and on one occasion in the Appellate Court, I listened to a brother attorney eulogize a certain decision that he was quoting to the Appellate Court, written by Judge Wright; I told him afterwards, because of his peculiar fate, "Brother, do you know that Wright was a colored man, born in Philadelphia?" and he said, "I did never understand it." "Well," I said, "he gave you a pretty handy decision for your purposes." He said, "Yes, he handed down the law exactly as it is, and the Appellate Court said, 'Yes, that is the law.'" When we think of the colored race, we think about the ones who need something done to them, and seldom do we think of those who have made their marks in this life and gone on. No better than any other citizen, but just the same, poor, weak human nature, sometimes good, sometimes bad. But you cannot bundle all of the bad ones up, put them up in front and say, "We will judge the balance of them by the bad ones we put in front." You owe a duty to yourselves as men to say, "As long as we have citizens in the State of Illinois, so far as the law is concerned, we will make them absolutely equal before us."

Mr. TRAUTMANN (St. Clair). I presume the gentleman from Cook will make the statement, in view of the fact that this section contains but one statement, that the words "doing anything" referred to "legal things." I was wondering whether he would object to adding after the words "doing anything," the following: "that any other person may do."

Mr. MORRIS (Cook). Not at all. I don't want for them a single thing that everybody else has not got.

Mr. McEWEN (Cook). With the provision as your propose it, would a law passed by the General Assembly forbidding inter-marriage of blacks and whites be constitutional?

Mr. MORRIS (Cook). I will answer the question, because very frequently, and pardon me if I just wander around a little, I got the disease from the other brother delegates, before I get up to the subject; but it is curable in me.

Mr. McEWEN (Cook). Well, I presume a lot would like to get your formula.

Mr. MORRIS (Cook). If they will all remain silent as long as I do and say as little as I do, I think the cure will be effective.

Now, that question is often asked, and I want to say that if I were an Anglo-Saxon woman, I would consider I was insulted by any proposition which prohibited me from doing the thing that all of our past experience shows we are not doing. They are not asking anybody to protect them, and I understand that marriage is a contract between two people, it takes two to make that contract. All of the colored men in the world could not marry unless there was somebody else willing.

Now, then, are the Anglo-Saxon women asking you to protect them from themselves, isn't it almost an insult to intimate that they need your kindly, fatherly protection? They can protect themselves; they have been doing it for centuries. If you want a law against anything being done to them, against their will, I will make it just as strong as any man in this Conven-

tion, but they are in no danger of getting married against their wills, and nobody has intimated that they are rushing fullsail and pellmell after brown men or yellow men.

There are plenty of handsome gentlemen here, and they seem to be very content, and I think they ought to be. I haven't the slightest doubt about that. I admire their choice, and I think they ought to.

You might as well introduce a measure prohibiting colored women from marrying white men. I would not insult the woman of color that way. They are not running after you gentlemen, very much. And I put on the "very much," because sometimes you gentlemen do the running the other way, but they are not asking to be protected against themselves. Of course if this became a part of the organic law of this State, it would prohibit the legislature from doing just that thing, but that was not the purpose and object of the introduction at all, because I found human nature cannot be fooled with laws on that sort of thing. I am talking about Jim Crow legislation, I am talking about legislation that may come in here under pressure and induce the General Assembly to permit cities to have separate cars and the like of that.

Mr. McEWEN (Cook). Do you believe that the legislature should be left free by law to pass such regulations and rules regarding races as will prevent their intermixing?

Mr. MORRIS (Cook). I don't; I haven't any hesitation in saying so.

Mr. McEWEN (Cook). Do you think it would be a good thing for the people of this country if the races were permitted to intermingle and assemble?

Mr. MORRIS (Cook). I think it would be a good thing for this country if we as lawmakers attended to our own business and let the individuals attend to theirs, along those lines.

Mr. McEWEN (Cook). Doesn't that statement imply that you would be willing to have the races intermingle, if they would?

Mr. MORRIS (Cook). I have absolutely nothing to do with what the individual as such wants to do, where he wants to go and what he wants to do with the consent of other people; let him do it.

Mr. McEWEN (Cook). This was brought to my mind by the race riots of Chicago during the last year. Do you not think that those riots suggest the necessity of a race segregation in our big cities?

Mr. MORRIS (Cook). Oh, no, not by any means. I do not think that even Chicago is as bad as some may think it is and ought to be placed on a plane with Atlanta, Georgia, and Meridian, Mississippi, away down there where the men live who lead lives of regeneration.

Mr. McEWEN (Cook). Some years ago when they built the new county jail, after a time the jailer placed a regulation in effect that he would put all colored men on one floor in the interest of good order, in the jail. I believe a rule that has continued ever since. I observed at that time that a number of colored men had meetings and passed a resolution attacking that. Isn't that just about the question, in the interest of good order and peace of society, whether it is now necessary to have some sort of consideration which does result from the natural antipathy of the races to each other?

Mr. MORRIS (Cook). I am glad to hear the question of the gentleman, because they indicate the necessity of the passage of this proposal. If the learned gentleman takes that attitude, then of course you can see why this proposal ought to become a law. I do not agree with you in that regard at all. There is no occasion for the passage of such an order; as it was, it was abrogated shortly afterwards, and not followed by his successors, but criminals were placed and confined in the county jail according to the seriousness of the offense and that was the proper way, for a black criminal looks exactly the same to me as a white criminal.

Mr. McEWEN (Cook). The matter has been of great interest to me, and particularly during the last year, and it has set me to thinking not whether this country, its civil and property rights, might be intermingled,

but whether there are social rights in which there may be a line drawn between the races where such a line should be drawn, and in your proposition now you present that question.

Mr. MORRIS (Cook). I do not think it presents any question of social rights, because a man will go with A, B and C if he wants to, if he wants to avoid a gentleman with grey hair he may do so, if I want to avoid a man with blue eyes I can do so. If a man wants to avoid walking down the street with me because my hair is curly or my hair is grey or I am a brunette, that is his business, it is no legal right.

Mr. McEWEN (Cook). Doesn't it always come back to the idea of social contact?

Mr. MORRIS (Cook). No, I don't think so. I do not think a fair-minded properly reared and properly educated man of the Anglo-Saxon race even entertains such an idea. In some states they preach it, because it is popular to preach to the ignorant and they climb into power through that means. Seriously, I do not believe there is any man on earth who believes or would seriously consider because he makes me equal before the law, he has to invite me to dinner or take me to the theatre, in fact, I would not want to go with him, I would rather go with myself or some of my people, unless we have some business talk. In fact, I think the large majority of our people feel that way. I want to leave it to my brother to say whether he will have a cigar with me or not, but that is no legal objection.

Mr. McEWEN (Cook). Now, the question in the South is the inevitable proposition of protecting the black man in his social equality. The tendency is the mingling and joining of the two races, that is their argument and excuse for the legislation. There are two distinct lines of thought, there is one field which says that social equality should be guaranteed and enjoyed, and the principle of the Washington idea is that the races should be separated. This question is a serious one, and not a sentimental one in my mind, based upon present necessities which do not mean any substantial denial of rights to either race.

Mr. SUTHERLAND (Cook). I simply wish to observe, Mr. Chairman and Gentlemen of the Convention, that you cannot repress by artificial law any natural force. You cannot dam up a stream without providing an outlet. You cannot put out a fire except in one way, by destroying the fire. The greatest force of the world development has been racial force, and you cannot check one of these forces, one of these ethnological forces once it gets started. You can do it, yes, but only one way, that is by destroying the coming race, and that is what no man desires to do. No law, no constitution ever turned back the ethnological movements in this world, and never will.

The good Lord puts us all together on this planet and we have to live here. We can get along well or we can get along ill, and if we take the natural law and the same level plane as he tells us to, he will get along as well as can humanly be done, but if we try artificial laws we create unrest and trouble, the end of which no man can see. I believe the proposition offered by the delegate from Cook county is one that we can well afford to put in our Constitution, it will not change existing conditions, but simply state a principle which no man can deny.

Mr. MOORE (Macon). I want to say that no man lives who has a stronger feeling of justice to the colored race than I have. The people of Illinois shed their blood in large quantities in order to demonstrate the fact that the negro was a man and not a chattel, and I do not believe that there is any man in the State of Illinois who wants to take away from the colored man his right to justice in every particular, but I do feel that to adopt this proposal is to insult the people of the State of Illinois in their sense of justice. I hoped that the word "color" would not enter into the Constitution. I told the colored people of my district when I was a candidate that I was ready to stand as my father and fathers stood, and as most of the men here stood, for liberty and justice to the colored race, and if I had a word to say about it and I could prevent it the words "negro" or "colored race" would not enter into the Constitution of the State of Illinois. In a Bill

of Rights that we adopted yesterday, we provided for the rights of the citizen, and those rights were provided for all citizens, and I think it is unnecessary and it is improper and it is insulting to the sense of justice of the people of Illinois to say that they shall not legislate against a particular portion of the community. There is nothing in the history of Illinois since the adoption of the present Constitution which shows there is a tendency to permit that injustice.

Mr. GEE (Lawrence). It was far from my purpose to take any steps by word of mouth or otherwise on this proposal that would tend to deprive the colored man of what I think his rights should be or are, but a foremost fact was presented as a reason for keeping the words "doing anything," for fear of a Jim Crow law in Illinois. No fear need be in the mind of any colored man of such a law existing in the State of Illinois. It was out of Illinois there came the great Emancipator that lifted from the shackles of servitude the men of the colored race. I am not going here to make an apology for the white citizens, for they need none, but I feel deeply that the colored man can afford to trust in the future as he has trusted in us in the past, to allow the white race that has to do mostly with the laws of Illinois, to continue to protect him, and there is no need for this broad sweeping proposal "do anything."

Mark you, gentlemen, this proposal does not confine itself absolutely to the colored race, about which the eminent gentleman, a great credit to his race, has spoken so forcibly and well. There are other races, Chinese and Japanese, that have different colors from mine and yours. One of them in particular, if not two, are absolutely barred by the laws of the United States from that citizenship which we give to our colored brethren in Illinois, and yet you propose in this proposal that no law can be made which would prohibit any one of those races from acting or doing any of the things they might according to the laws of the United States, to which all our laws and our Constitution must be secondary. I think it pertinent to in a way paraphrase Kipling and say, "White is white and black is black." I don't speak that with any degree of discredit, but God Almighty so willed it, and we cannot wipe it out.

I would not for a moment speak of any man's color or anything of that kind, but there is a line of demarcation under which we are living under our present Constitution that I think ought not to be thrown down. It is said marriage is a civil contract and it would be an insult to a white woman for a colored man to propose marriage. White women have been insulted, and I want to protect them so far as I can as do all men of the white race. I am not in favor of going to the length of this proposal that the law could not prohibit anything. There are some things which should be prohibited. Social questions cannot be wiped out by any dictum, constitutional or otherwise. If you are going to open up the floodgates for all races, regardless, Oriental or any other race, all right. That is what we do by this proposal.

I think we will do better to confine it to legal rights, and then we are within the purview of the constitutional necessity and the laws of the courts. Our colored men need have no fears. We have been fair in the past on that question, and while you may take your circumstances of history and talk about them, it is history that we brought you out of servitude and degradation.

So far as I am personally concerned, I want the record to show that I am against this proposal as written, and I want to put myself on record that I want to leave it as it has been, legal rights, and no man, colored or white, should have anything more. Anybody asking more than a legal right, is asking something that is not right.

Mr. DAVIS (Cook). It was intimated earlier in the day by the delegate who presented this proposal that there would not be any debate on the question that this proposal would be incorporated in the report of the Committee of the Whole considering the Bill of Rights. It seems as though this Convention refuses to conform to that understanding. I am taking advantage of the opportunity to express my views on the matter.

In the consideration of every principle affecting our understanding of government and the functions of government, the delegates to this Convention have been very outspoken, direct and honest in the expression of their opinions.

In considering this principal of government, in considering this matter which affects human rights, my plea to this committee is to be honest in considering this matter, as we have been honest in considering other matters which have come before us. So we want in framing our Constitution to make certain our conception of the rights of the citizens of Illinois, irrespective of color. It was an error to say that the proposal as presented might apply with equal force to the members of the yellow race, who are not under our laws citizens of this State. The proposal deals with the rights of citizens of Illinois, and I say, Mr. Chairman, that this Convention, irrespective of the consequences along practical lines, and I am not one of those that is blind to the consideration of practical questions which are involved, but I say irrespective of those practical questions, this Convention ought to go on record along direct and honest lines of establishing ourselves, we want to reiterate in our Bill of Rights the conception which is ours regarding the rights of human beings who are citizens of the State of Illinois. Now, Mr. Chairman and gentlemen, when this matter was considered before the Committee on Bill of Rights, we examined the provisions dealing on this question which were incorporated in the Bill of Rights of the Constitution of 1870, and it would appear that the words there appearing were a sufficient guarantee and stated plainly that it was the policy of the framers of that Constitution that all the citizens of Illinois should have an equal standing before the law, irrespective of color, but we found that the Supreme Court of the United States and the supreme courts of other states construing wording similar to that which appeared in the Bill of Rights of 1870, had said that the legislative action providing for Jim Crow cars and segregating the black and white races, was not in conflict with that declaration in the Bill of Rights.

And all that the delegate who proposed this has changed is the wording, and not the principle. A change of wording which will make certain that if the legislature of this State passes a law similar to those which have been passed by the legislatures of some of our Southern states, the Supreme Court of our State would hold that the law is in conflict with the principle as we understand it, and with the words as we express them. That is what is presented on this question which we must answer.

Let me answer it for myself. If I do not mistake the high purpose of the citizenry of Illinois, as represented by the delegates to this Convention, I know we don't want to do an injustice to any person who by the operation of our laws, or of the laws of the United States, has been admitted to citizenship by this great State and Nation. We want to face the situation from two angles. Are we to reverse the policy of the State of Illinois, which indeed was the beacon light of other states in the recognition of human rights? If we are not to reverse the policy in view of the experience of the last fifty years in the decisions of the Supreme Court of the United States and other state courts, let us change the wording of our Bill of Rights, which will enunciate the principle which has been enunciated by our fathers and under which we have stood and lived. And if we are to keep the principle, I appeal to the leaders of public thought in Illinois to consider the problem along the most broad and most enlightened lines.

Are we interested in men regardless of their creed or color? If we are, are we to follow a line of action that will enable them to get to the heights of their ambition? Are we to pursue a course of action which will say because of their color they are different, no matter what their mental equipment is, no matter what the color of their heart is, no matter what the height of their ambition or purpose may be? If you and I have any fault to find with some of the things that the colored man has done, and I am frank in saying in some of the things the colored man has done I have not acquiesced,

as I am frank in saying that he should have an opportunity to have all of the things from a legal standpoint that we of the white race should have, there I say we should act along the line of encouragement, and say to that man of the colored race, "It is not because of any limitation of the law that you have done the thing of which it is complained." Let us put the responsibility directly on the individual of that race, and not on the race as an aggregation, but first give him the opportunity and standing before the law to be held responsible. My fellow delegates, we haven't the right to ask the colored man to conduct himself along those lines of which you and I might have a right to complain, unless we give him an opportunity to have the standing which you and I have. There is an expression in this proposal for matters of social contact and legal right, and the colored man no more than the white man, would have the right to ask the incorporation of that principle in the Constitution of the State which would in any way abridge the rights of the individual to treat another individual along the lines of social contact as they choose. But I say in legal relations we must perpetuate the principles of government which have been our certainty from the days of the Civil War, that every man who was a citizen of the State and a citizen of the United States shall have an equal standing before the law with any other citizens of the State and the United States.

Mr. TRAUTMANN (St. Clair). It seems to me, gentlemen, something of this kind has a place in the Bill of Rights. I do not like to disagree with the distinguished gentleman from Macon, but he seeks to object very strenuously to the words "of color" being used in the Constitution. If I am not mistaken in reading history, of the things that happened before I was born, the State of Illinois, represented in its General Assembly, assisted in putting the word "color" in the Fourteenth Amendment of the Federal Constitution, which provides that the right of suffrage shall not be denied to any citizen on account of race, color or previous condition of servitude. Our State helped to put it over. I do not see that that is any particular reason why the word "color" should not find a place in the Constitution of Illinois in framing a fundamental law for this State. I don't understand why we should discriminate as between citizens, and for that reason I have a few objections to this proposal, and if it is changed, the objections raised by the gentleman from Lawrence will be met, or one of his objections, so far as the Oriental races are concerned, who cannot under the law become citizens of the United States.

It evidently was the intention of the gentleman from Cook who introduced this proposal to have it apply to citizens, as he used that term in the first and second line, and afterwards the word "person" was used.

Now, then, I don't think if this proposal is adopted the amendment offered by the gentleman from Lawrence should prevail, and as a substitute I desire to move that where the word "person" appears in line 3, that it be eliminated and the word "citizen" be substituted; and after the word "anything" in line 4, add the following, "that any other citizen may do." So that the proposal will read, if this amendment is adopted: "The laws of this State shall be applicable alike to all citizens without regard to race or color, and no citizen shall be prohibited from doing anything any other citizen may, because or by reason of race or color of such citizen."

Mr. MORRIS (Cook). I accept the substitute as offered by the gentleman from St. Clair.

CHAIRMAN RINAKER The question is on the amendment.
(Amendment lost.)

CHAIRMAN RINAKER. The question is on the substitute offered by the gentleman from St. Clair accepted by the gentleman from Cook.

(Adopted.)

Mr. SUTHERLAND (Cook). I move the adoption of the section as amended.

(Adopted.)

Report of the Bill of Rights Committee on Proposal No. 232, reported back with the recommendation that it be rejected.

Mr. GREEN (Champaign). I move the report of the committee be concurred in.

(Concurred in.)

CHAIRMAN RINAKER. The question will now recur on the Bill of Rights as amended, as a whole.

Mr. REVELL (Cook). I move it be adopted.

CHAIRMAN RINAKER. That will include the action on the two proposals which were reported separately.

Mr. GREEN (Champaign). I move the amendment that the sections adopted in the Bill of Rights be reported to the Convention for incorporation in the Constitution with the reservation that others may be added.

Mr. REVELL (Cook). I accept.

(Adopted.)

Mr. GREEN (Champaign). I move the committee rise and report progress and ask leave to sit again.

(President Woodward, presiding.)

Mr. RINAKER (Macoupin). Mr. President, the Committee of the Whole having under consideration the Bill of Rights, reports progress, and in its deliberations certain sections are recommended to the Convention for adoption, and they reserve consideration of Proposal 120 and other matters that may yet come before them, and ask leave to sit again.

THE PRESIDENT. You have heard the Report of the Committee of the Whole.

(Report adopted.)

THE PRESIDENT. The Convention will now resolve itself into a Committee of the Whole and I appoint Delegate Lindly of Bond to act as Chairman of the Committee of the Whole.

(Chairman Lindly, presiding.)

Whereupon the Committee of the Whole went into consideration of Proposal No. 377.

CHAIRMAN LINDLY. You have heard the proposal read, Section Number 1 is the question now before the Committee.

Mr. JARMAN (Schuyler). I move the adoption of Section 1.

Section 1 is simply a confirmation of the authority given to issue twenty million dollars worth of bonds as authorized by the amendment to the Constitution of 1908. I think that is all the explanation that is needed. Of course that follows from a reading of the section itself.

Mr. FIFER (McLean). It seems to me that this is not the proper place in the Constitution for a provision of that kind. It is one of those fugitive questions that properly belongs in the schedule. For instance, there is a period of time between the time the Constitution is adopted and its going into effect, that such questions must be carried over, and all such questions as arise under the old Constitution where persons are bound over to keep the peace and in fact all of the rights had by law under the old Constitution are to be preserved in the schedule.

And as evidence of that, I ask you to turn to the Annotated Constitution of our State put out by the Committee of the legislature that furnishes us with so much valuable material to enable us to do our work here with so little trouble. Now, previous to the Constitution of 1870, any city, township or county could vote bonds to railroads or any other public enterprise of that kind, quasi-public enterprise, and they could subscribe for the stock of those enterprises, but our present Constitution forbade that. But over here in Quincy in 1869 they voted to subscribe for a certain amount of railroad stock of a certain railroad, that was to serve that city. Now, the Constitution makers of 1870 did not want to take away from the City of Quincy the power and the right to complete the arrangement that they had already made, and to fulfill their subscription of the railroad stock, so the question is parallel to the one we have here, and you will find here a provision giving

to the City of Quincy the authority to go ahead and pay for the stock for which it had subscribed.

Now, nothing would have been necessary hadn't the new Constitution forbade subscriptions of that kind and denied the right of cities and townships and counties to subscribe for the stock of railroads. And they did not put it into the body of the Constitution, it was a fugitive question, that is always found in the schedule of constitutions. But let me show you that this provision in the first section is not necessary. It is not necessary even in the schedule, because no change has been made in the amendment of 1908 but the same has been preserved. It is only where changes have occurred that previous rights must be preserved in the schedule.

For one I am opposed to the whole Waterways system, my pet aversion. Now, I don't want at this time to recognize the right of that proposed waterway to have a place even in the schedule when we come to consider the schedule. I shall avail myself of the privilege of offering a provision in regard to the bonds now in the treasury vaults of the State and shall insist that they should be held there until this whole question of the propriety of going ahead with this waterway business is submitted again to the people. There seems to be some anxiety to get into the fundamental law of the State some recognition by this Constitutional body of what has been done in respect to the waterway. It has been said over and over again, that the people in 1908 voted overwhelmingly for this proposition. Yes, and they did so, in my judgment, with a misapprehension of the consequences and then under that provision of the Constitution legislation was required, and over and over again, I believe no less than five times the lower house at least of the General Assembly refused the legislation.

Now, this question was up over a month ago, and they left out some important matters in their committee report and that was that no appropriation could be made to any railroad or canal. That was left out and they told me that the railroad part was to appear in another part of the Constitution, but it was entirely left out in all portions of the Constitution so far as the appropriation to canals was concerned. And then it was referred back to the committee. I want to fight fair. If the members of this Convention want to go on with this, well and good, but I want a fair expression of opinion, and I didn't want to take any advantage of my friend now in the chair and so I consented that the matter be re-committed.

So it was referred back to the proper committee, to the same committee, and they had numerous meetings. I was invited to two of them, and other outsiders were invited. And we had a feast, a little lunch; not the kind of lunch described by Sydney Smith, where "everything was cold except the water, and everything was sour except the vinegar," but it was a splendid feast; and after it was over they put on a witness, a gentleman for whom I have the highest regard, a gentleman whom I am glad to call my friend, and what did he do? He kicked over, like Mrs. O'Leary's cow, the bucket, and spilled the milk.

He said before the committee, when I was cross-examining him, that there was no purpose to have a deep waterway now. My friend from Joliet over there was present and heard him. I asked him, "What are you going to do with it?" "Oh, we are going to use barges." "You are not using barges on the Ohio river, the Mississippi river, the Red river, the Columbia river, not even on the Illinois river, why do you want to with this piece of canal, fifty or sixty miles long, and spend twenty million dollars, to dig a ditch on which you put barges?" Well, he thought it would pay, and I saw the gentlemen of the committee who were favoring it casting furtive glances at each other. They seemed to realize that their witness had spilled the beans.

You are sensible men. I have before told you that the commerce of the Mississippi river has gone, and especially so on the Ohio. The commerce has been taken from the water and placed upon the rails. I don't want to go over that again. Now, do you want, for the purpose of making an opportunity for a stern wheel boat to push barges a distance of fifty or

sixty miles, to incur an expenditure of twenty million dollars? If you do, well and good. I shall never live, I might almost say "thank God," to see the consummation of that folly.

Mr. REVELL (Cook). Mr. Chairman.

CHAIRMAN LINDLY. The Chair will recognize the gentleman from Cook in a minute. I want to say that the report of the action of the committee, that we recommended in the first report that this twenty million bond issue be recognized in the schedule. That question was discussed by the committee of the whole, and the amendment was offered by the committee of the whole putting in substantially the amendment of the Constitution in the present Constitution. Then it was referred by the vote of the committee, back to the committee, as we understood, with the instructions to so act. That is the reason it is put in the report of the committee instead of the schedule, because of the action of this committee. The gentleman from Cook.

Mr. REVELL (Cook). I am not a lawyer, as probably many of you have come to know, when it comes to discussing technical legal matters which have been presented here, and on which I deemed it my duty to say a few words. The matter, Mr. Chairman, suggested by the delegate from McLean as to whether this is in its proper place in the schedule, does not seem to me important, and certainly not important as coming at this time from the gentleman who has just taken his seat, because he has also practically stated that no matter where it appears in the schedule he is going to defeat it if he can.

I was present at the meeting at which the engineer, Mr. Sackett, appeared. I listened to him with earnestness, as we all did. I read into his testimony nothing that emphasized in my mind, the things which seem to be in the mind of my good friend, Governor Fifer. The trouble with Governor Fifer is that he states a small part of the testimony. Mr. Sackett was endeavoring to answer the questions of the Governor in an entirely serious, honest and accurate way; Governor Fifer plucks out a portion, without qualifying it with what went before or what came after.

What I shall say about this matter shall not touch, as I say, legal matter. It might be well to first give the briefest kind of a statement regarding the introduction and support of the waterway proposition, that is, considered from the record or legislative situation up to the present time.

If the plan advocated by some, seeming to have you provide in the new Constitution an article, or part of an article, is adopted, it practically amounts to the rescinding of the waterway amendment, adopted by vote of the people in 1908.

The subject was before the legislature during the years 1909-1912, but very little was accomplished.

In 1915 a compromise measure was brought before the legislature. It was much discussed there, through the public press and in various other ways. In the Spring of 1915 this measure was brought to a vote in the legislature. The vote was as follows: In the House, 107 for, 41 against; in the Senate, 33 for, 9 against.

The law of 1915 was never carried out because the application of the State of Illinois for a permit from the War Department was denied.

With the advent of the present administration, the matter was again brought under consideration. Another bill was presented to the Assembly with provisions which avoided the objections of the War Department. Again this bill was discussed in the Assembly and in the public press. The bill was passed in the Spring of 1919, the vote being as follows: In the House, 115 for, 11 against; in the Senate, 37 for, 2 against.

Since the passage of the law, all the difficulties with the War Department have been overcome and the necessary permit has been issued.

The matter of the Illinois waterway, in one form or another, has been almost continuously before the public for twenty to thirty years. The record is clear and definite. During the entire time public sentiment has stood definitely in favor of the waterway. The votes recorded in the legis-

lature show that the public sentiment has been increasingly favorable. We must submit, therefore to the members of the Constitutional Convention that it would be contrary to the well known sentiments of the people of the State to seek by constitutional enactment to defeat their will.

That our flowing roads—the water highways of Illinois—have played a disappointing part in the development of the State, most of us will admit, for it is obvious. That they can be made to play a most important part in the future development of our State, is, to many of us, equally obvious. We can make the future as certain as the past if we will but study and profit by the blunders that mark the pages of our canal-building history.

Why have the water highways of Illinois proved a disappointment? Primarily, in a traffic sense, because they began nowhere and ended nowhere; that is, they formed no continuous route along which there could be a steady flow of traffic from point of source to the point of consumption or distribution. Rivers flow into rivers and these in time reach the sea, but water that flows nowhere stagnates, and that has been the fate of our Illinois canals—stagnation. Standing face to face with the cause of failure, we would not be Americans could we not wrest success from the very cause of failure.

The truth is, gentlemen, in these times of traffic congestion, when all lines of industry are seriously hampered by the partial paralysis of the railways, when our national finances are heavily burdened by transportation delays, we must develop our waterways for the future, that they may cooperate with the railways in accomplishing the still more stupendous tasks which confront them.

We would blunder fatally if we held that Illinois waterways cannot succeed because under fearful obstacles they have not succeeded to the full measure of the expectations of their builders. For many years there has been no such thing as a real commercial waterway in this State—a modern commercial waterway. The old I. & M. canal was sadly neglected. It became a source of income—for politicians—but not for the people.

Do you think a railway would do any better if it were a disconnected link in a transportation chain? What would be the traffic revenue of the Burlington railroad if it began at Aurora and ended at Galesburg and had neither traffic connections or arrangements at either end? In these busy days we do not follow paths that lead from one stone wall to another.

Those who decry the canals place much stress on the point that, with the development of the railroads, thirty, forty or fifty years ago, traffic deserted the canals for the routes of steam and steel. In view of conditions as they then existed, we could not expect anything else. The steam roads had developed faster than the population and production of the regions they traversed. Competition for railroad traffic was of the keenest. We can recall the rebate scandals, as well as some of the blighting effects of differential rates. No wonder the railroads got the traffic. They went after it; the canals did not, and could not in the same way.

Then, too, there was probably a certain psychological factor in the case. The railways were new. All the world loves a new plaything. The trains rushed by with the speed and roar of destiny. The canals exhibited the energy of a drowsy bovine. The railways were high-spirited steeds. Commerce, at the price made by fierce rail competition, between them—chose the latter to draw its merchandise and produce.

Moreover, the railways reached many places; the canals few. The one was at our door; the other was over the hills and far away. The railways were obliging; the canals seemingly indifferent. Naturally we gave no thought to the morrow and chose what served our immediate purpose best.

But *now* that tomorrow has become *today*. You know the conditions which confront our country—and what confronts the country confronts equally every man whose patriotism and capital, all things produced, are enlisted in the great national cause of progress.

Railway traffic no longer flows with that restless rush that the ever-rising flood of production necessitates. The railways are blocked at many

places along their lines, and particularly at the great distribution points. Moreover, their equipment is utterly inadequate to handle the freight of the country. It will be a long, very long time before they can accumulate the needed locomotives, cars and equipment to clear away freight congestion, and maintain that steady flow of traffic which is as vital to the national health and prosperity as the steady flow of good red blood through our veins is vital to our individual existence.

All classes of our people have suffered from these conditions. I believe that in the future the farmers of the country, particularly those of the Mississippi valley, will be seriously affected by such conditions. Even at present in many parts of the west they have found it almost impossible to get their produce to market, and yet the country—in fact, the world—is crying for their produce. Warehouses in many places throughout the west are bursting with the golden grain that long ago should have become golden coin in the pockets of the men who till the fields and feed the cities. Banks everywhere are seriously perplexed by the vast amounts of capital tied up in embargoed shipments of all products. Capital everywhere is shackled from the same cause. Legitimate industry cannot negotiate necessary loans because so much capital is tied up by delay. Right here we see one of the powerful influences in the continued high cost of the necessities of life. And if it is contended that the railroad condition is merely one of the economic consequences of the war, I point you to 1907, when the same situation, not so acute as now, came about and assisted materially in the serious and costly depression of that year. More recently, even before the war commenced, there were evidences of coming congestion.

At a recent conference before the Interstate Commerce Commission on rate hearings a statement was made by Clifford Thorne, speaking in behalf of the Farmers' Grain Dealers' Association, that it was hoped the government would utilize the shipping facilities on the Great Lakes for the transportation of grain as one solution to the car shortage problem. This brought forth a storm of protest from the representatives of the coal and steel industry, who asserted that the tonnage in question was now being fully utilized in transporting ore and coal.

Query: What does food amount to if there is a demand on the part on industry for its requirements? You answer the question.

My friends, once more I repeat the time is soon coming when every possible channel for transporting commodities of soil and factory must be anticipated and encouraged or we shall fall short of our duty and the future condemn us.

In such a crisis we must solve the transportation question. One great opportunity at least can be found in the adequate development of our waterways. Take our Illinois canals and bring them up to date. Make them adequate to the demands of present-day business methods and conditions. Link them to other waterways—the Mississippi, one of the possible world's greatest highways of commerce, is at our door. Bring St. Louis and New Orleans nearer to Chicago and to central Illinois. Make possible a steady flow of traffic along these continuous waterways, and they will become at once a mighty factor in transportation and a profit instead of an expense to our people.

To me it seems that the marvelous development of the motor truck and motor transportation can be turned to the advantage of the canal freight routes. Obviously each big plant cannot have an aqueous side track to its plant, nor can all big plants that could ship by water be located along canals. But trucks can be used for short hauls from plant to waterway shipping points, thus establishing a great network of industrial supply lines that will maintain steady and cheap communication between farms and factories and the waterways of the State. Thus the canals will be given many sources of supply, the lack of which has seriously hampered them in the past and on which the railroads have built much of their prosperity.

An essential feature of waterway development is the building of adequate dock and other facilities for the loading and unloading of cargo

boats. One would not expect a railway to thrive if it lacked freight houses and team tracks. Why demand more of a waterway?

A factor that promises much for the canal development of the coming years is the growing custom of locating large plants on or close to waterways. Many plants, such, for example, as the Barrett Company, have located on a waterway for the specific purpose of being able to secure by water the immense tonnage of raw materials and coal which their plants require. There is a felt paper plant at Peoria located on what is known as the Kickapoo Creek development. This plant ships to Chicago about four carloads of felt paper daily. The bulk of this could be moved by water and on the return trip the barge could bring raw material and fuel to the plant. As a matter of interest in connection with the traffic on the Illinois River, I beg to advise that on June 22 a tow and fleet of barges carrying 500,000 gallons of molasses from New Orleans to Peoria passed through the State locks on the Illinois River.

An officer of one large industry in Chicago says:

"We have been trying to solve our coal problem by the use of our dock, but we have been unable to do so of late. We burn about 4,000 tons of coal per year, and if there is a possibility of using the Chicago River or the Drainage Canal for transporting coal to our dock it would do away with a great deal of the congestion on the railroads, also inconvenience and expense caused by the inefficiency of the railroads to handle the coal situation.

Bulky freight is among the least attractive of the railways' classes of business, and one that the waterways can handle cheaply and profitably without injury to the railways. Indeed, we should realize clearly that the waterway need never be a rival of the railway. There is business enough for both.

The claim has been made that the State of New York squandered vast sums on the Erie barge canal, but we must not overlook the fact that this canal did more to develop that State than any other single agency. The canal and the Hudson River spread the manufacturing industries clear across the Empire State and brought prosperity to many localities. Furthermore, the railways paralleling the canal were not put out of business, but, on the contrary, found added prosperity in the accelerated development of the entire country through which both steam and water routes passed.

A clear-thinking railway man has said:

"Some of our officials are tonnage-mad, but I am rather for the high grade freight, especially the stuff that takes first class and double first class rates. The canal and the river boats can have all the coal, brick, tile, sand, lumber, stone, salt, paper and similar low freights that they can handle. It is my opinion that the more economically these low grade freights can be handled the more prosperous the industries will be, and the people who live on these industries are the ones who furnish us with the real freight revenue."

That statement is of interest in considering our Illinois waterways. As you know, there are large deposits of sand of commercial value along the Illinois River in the vicinity of LaSalle and Ottawa, and many coal mines are tributary to the river, thus supplying a large tonnage, the handling of which would relieve the railways of a part of their excessive burden.

And it can be remarked in passing that in the Empire State those who oppose and those who favor the Erie canal are in unity in opposition to the proposed St. Lawrence waterway, and why? Because it threatens a percentage of the value of the Erie canal and the harbor of New York.

It does seem that Illinois should make a start in the right direction without further delay. Problems worked out here will be taken up in other states, which will guarantee relief from freight congestion in the future. It is certain that unless we act in a big way, and promptly, there will be a serious halt in our progress in the coming years.

Waterways are, and have long been, a success in Europe, and there is no reason why they should not be a success here. It is true many over there

have had strong government assistance. The canalized rivers of the continent have done an enormous freight business for many years, and this country is not lacking of what may be accomplished.

The Soo canal paid for itself five times over in the season of 1918 alone. It is estimated that it saved \$180,000,000, while the total cost of the entire improvement was only \$38,000,000. In 1916 100,000,000 tons of freight passed through the Detroit River alone, while in 1850 the total tonnage of freight on all the Great Lakes was 25,000 tons.

Fair systems of freight exchange between railways and waterways, with construction of ample terminals for both, would mean maximum tonnage and benefit to the whole country.

Government engineers have faith in the future of the waterways. The War Department, which continues in control of the inland waterways, has recently announced elaborate plans for increasing the tonnage carried on rivers and canals under its jurisdiction. Transportation of freight by the New York state barge canal is predicted in a recent government statement, which says:

"On the New York state barge canal, which opened for navigation on May 15, the army is prepared to furnish adequate barge service between Buffalo, Albany and New York city. The principal movement of cargo in this district is the transference of grain from the Great Lakes district to New York city and the return upstream of such general cargo as is offered through this busy industrial district."

The government statement continues:

"In these operations the War Department expects to have in service during the summer of 1920 a total of 165 barges and towboats, aggregating a cargo capacity of 141,450 tons. This equipment is all new and has been designed and constructed particularly to meet navigational and traffic requirements of the localities in which it will operate. In this connection the government has profited by the experience of all previous designs of floating equipment for inland waterway service and has evolved in some instances types of barges entirely unique in that service. It has, for instance, constructed self-propelled barges which are capable of carrying upward of 400 tons of cargo and at the same time towing a number of other loaded, but non-self-propelling, barges. By these and other innovations it is anticipated that the ton mileage cost of inland waterway transportation may be permanently lowered, thus contributing to a very considerable extent in reducing the cost of living."

There is in existence a so-called six foot project from St. Louis to St. Paul, which is nearing completion and would have been completed before this had it not been for war conditions. There is a similar project on the Missouri River from St. Louis to Kansas City. Some work has been done on this project, but the present Congress failed to make the appropriation for the continuation of this work next year. Alton, Ill., is equipped with docks at a cost of \$100,000 and is now ready to transmit and receive freight.

There is also a nine foot project on the Ohio River from Pittsburgh to the mouth of the river. This work is in progress and nearing completion.

There is a nine foot project from St. Louis to New Orleans which is also nearing completion. However, the normal stage of the water is sufficient on that reach to give eight or nine feet most of the time without further improvements.

Anticipating the State's construction of the Illinois waterway Congress appropriated \$1,000,000, I think, in the year 1908 for the improvement of the Illinois River and the Mississippi River between St. Louis and Utica. This appropriation lapsed because the State did not undertake its work promptly.

You can see from the above that the Federal engineers and Congress have adopted waterway projects on all the streams mentioned, giving us an outlet to the sea and to all the important points in the Mississippi valley, and these are now continuing appropriations, except the Illinois River project, which is waiting for the State to undertake its work. With

the present flow in the Illinois River the minimum draft at low water under present conditions between Utica and St. Louis is six feet. Ordinarily it is considerably in excess of this depth.

In short, the whole Mississippi valley system of rivers is under improvement, and the full benefit of this improvement cannot be obtained until the State completes its link between Lockport and Utica.

Detroit is now the fourth city in the United States in population, Cleveland is fifth. This is due to the same cause that long ago placed Chicago in second place among American cities—all three having a position on the Great Lakes.

The future of Chicago is assured, even in the face of the great percentage development of other places. Our strong prestige, however, may be seriously threatened if other well-located middle west lake cities shall continue with a greater growth and development than she. The degree of this will be measured by the advantage we take of Lake Michigan and all possible waterways to the south, to the east and north. However, the building of our Chicago harbors, widening, straightening, systematizing and bridging the river and development of the lakes to the Mississippi must not be overlooked.

It is the opinion of many that the waterway percentage has been neglected in a passionate adherence to what might be termed "the development of the railroads."

We in Chicago are the center of railroads. There is no rival that nearly approaches us. We may well admit it, but percentage will be the guide of the future. The importance of railroads will not decrease and transportation by trucks will grow. In ten years, when we look back, we shall be amazed at the truck development. Even then the trucks will only take care of a percentage of increase.

Now, then, the path to greater things lies down the Mississippi valley as well as across Lake Michigan. There will be rivalry in our central cities, and it will continue to grow. We may well be pleased if Detroit in the next decade shall double her population, as she did in the past ten years. But in the meantime the principal city of our State must go ahead. We cannot now double our population in a decade. We are too big for that. The decade between 1880 and 1890 was Chicago's last time to double. Chicago must be in a position to have such a percentage of increase as will indicate to the world that she is going ahead in the splendid, sure way she has always done.

Certain it is that just as statistics may show a greater percentage per capita increase for many other places on the Great Lakes just as sure will our prestige decline, and as we decline so will each city and town in Illinois decline.

Illinois must place dependence on Chicago; Chicago must depend on Illinois. Whenever that city appears to lose and does lose to other central cities, rest assured the other cities, towns and farms in Illinois will likewise lose.

Do we wish to face even the possibility and not bravely meet it? Then let us seize every percentage we may that will safeguard our splendid location. There is an immense amount of industry down the central portion of the State. These have their merits and their interests in the progress of the entire State, just the same as its principal city—no more, no less. Hit them and the man living near or remote from them who does not see that he hits the entire State, whether his residence, business or profession may be located near water or not, is a man who only knows his own environment. He reads the future of the State on a superficial basis.

I am an optimist for Illinois and for its future—for Chicago, Peoria, East St. Louis, Joliet, Alton, Rockford, LaSalle, Bloomington and all the other cities and towns in our great commonwealth. But the optimist and the optimistic communities which rest on their laurels will be distanced by the plodding, far-seeing, optimistic communities which take advantage of every percentage from month to month and year by year.

I trust that your influence and your vote will be found in the record

of this Convention as standing for every percentage of advance, favoring the success of this great pivotal State of Illinois.

I am in favor of the report of the committee as it has been presented.

Mr. DUNLAP (Champaign). Mr. Chairman.

CHAIRMAN LINDLY. Mr. Dunlap.

Mr. DUNLAP (Champaign). I don't intend to make any extended remarks upon this question, and I am not prepared to treat this in an exhaustive way or in an as instructive way as the gentleman from Chicago has done. He has certainly given us a most excellent address upon this subject. The point from which I wish to speak upon this question is that of an interested citizen of Illinois.

This water way proposition I have watched for many years, and as a member of the State Senate I have been interested in voting upon these propositions as they came along. Mr. Hill, President of the Northern Pacific railway, some fifteen years or more ago, made the prophecy that the time would come in the very near future when the United States would need every ounce of transportation of rail or waterways or in any other method that might be devised for the transportation of its commerce. That prophecy has been fulfilled a number of years ago. We are suffering now from a congestion that has paralyzed business in many lines. If you are a shipper or a merchant or a manufacturer, you will realize that your business is impeded in many respects, and restricted by the lack of transportation to accommodate the business of the country. Now, it is useless for us to argue that the waterways are of no service as a transportation facility.

It is true, and it has been argued many years ago, that water transportation was too slow. As compared with railroad transportation there was no comparison, but those were the days when a man loaded a car at the station and it went through to Chicago and was there the next morning. Those were the days when freight upon the railroads moved with expedition. Now, you can load a car upon a sidetrack of the Illinois Central, if you want to ship to St. Louis, a distance of 165 miles, and you can safely predict you will get it there some time within the course of two or three weeks. And that is the experience of the shippers of this State when they undertake to get transportation from one point to another for their manufactures. Transportation—local freight—a distance of one hundred miles—takes from four to five days to get a shipment.

We might as well face this proposition, that we must avail ourselves of every facility for the transportation of commerce that it is possible for us to have. Now, it is well recognized, I think, from experience, that the policy of the State of Illinois has not been to permit private companies to enter upon and develop our water powers in this State. That is a matter that ought to be proceeded upon and accomplished by the State itself. I say that is the policy of the State. It has been adopted as the policy of the State, and as long as that continues we ought as a State to provide some means for its development. The water runs over the dam hour after hour, day after day, year after year, and it has been doing that for a century during the time that this State of Illinois has been a commonwealth, and has not been availed of to any great extent. I believe in the water development of this country. I believe in the development of the water power; I believe in the development as an energy producing agency; I believe in its development as a transportation agency; I believe that I have investigated to my satisfaction this point why water transportation has not been successful in competition with rail transportation, or as an accessory to it, and I have come to this conclusion: Water transportation will never be successful until the State or the United States Government provides transfer facilities and terminal facilities for the transportation by water, as is provided for rail transportation.

I mean by this, that we have with reference to one stream flowing through Illinois, the great Illinois river. Now, we have the Wabash railroad, we have the Big Four railroad, we have various railroads running east and west across the State. If at the point of intersection of each

railroad with the river transfer facilities are provided by which the grain, coal and other products can be transferred from the cars to the boats, or barges, if you will, and vice versa, from the barges and boats to the rails, then and not until then, will you have a successful waterway proposition. And when we do that, and when we use our rivers, as we will use them when that is provided, we will have a great accessory to our transportation facilities as they exist today.

Now, it is for that reason, and because I believe the water power that is in the State of Illinois should be developed, that I am in favor of this proposition here in Section 1 of this Act, that the money that has been voted by the people of the State of Illinois shall be used for the construction of the canal from Lockport to Utica. To be sure it is only fifty-three miles. It has been referred to in a sarcastic way as a canal fifty-three miles long, that it begins nowhere and gets nowhere. That is not altogether true. It connects the drainage ditch of Chicago, the so-called drainage canal, with the Illinois River, and with the Illinois River, the Mississippi River, and all of the other rivers that are connected therewith; so that it is not a canal fifty-three miles long, but it is that obstacle there, fifty-three miles long, that has to be removed before the waterway itself will be available for transportation.

Now, it has been said that the Hennepin canal has been a failure. Why has it been a failure? Because it begins nowhere, and ends nowhere, and has no way of getting out from where it is. You can't get the freight from that canal onto a railroad, neither is there any necessity for the railroads transporting freight by that canal, because that is a short canal. The system has not been perfected. If you are going to undertake any enterprise and you fail to connect it up—you begin at one end and begin at the other end, and leave the center incomplete, making no connections, your project is a failure, and necessarily so, so that the same thing can be said of our water transportation.

Now, let us proceed to develop our canal from Lockport to Utica, provide for the barge transportation facilities, if you please then we can connect it up with transfer facilities at various points where they are required, and then you will have a transportation system which will be without doubt an aid to railroad transportation. That is not the only method of transportation you will have, and that comes to the transportation of freight by trucks. That is another question, the development of the hard roads of this State. It has nothing to do with this proposition, but is part of the entire system of what is needed in this State to take care of our business and our commerce.

We must not become narrow in our development of these projects. We must look at the State of Illinois, the greatest commonwealth in the Union. It is centrally located; it is located in such a manner that it cannot escape prosperity if it tried, but let us provide all the facilities possible for the State of Illinois to provide.

It has been said by those who have investigated this matter that the coal fields of Illinois could be reached by water facilities, by the Mississippi and Illinois Rivers, to transport coal to these great manufacturing towns in the northern part of the State. Now, if you can transport this heavy freight on barges, why isn't it our duty to provide for such means of transportation?

You say in my district, the 24th district, over here in the east part of Illinois, where we have no water transportation, where we can't get to the Illinois River with our freight, why we should be interested? We are interested because if we can have this water transportation developed you will release the cars and locomotives so that they can take care of our freight over in our section, and our interests are identical with the interests of the people of the Mississippi valley. That is why we are interested in this question. We want to see the commerce of Illinois developed in such a way that will bring in and use for the development of the business

of this State every ounce of transportation that we can get in any one way or another.

Mr. FIFER (McLean). I would like to ask the gentleman a question or two.

CHAIRMAN LINDLY. With the permission of the gentleman from Champaign.

Mr. DUNLAP (Champaign). Certainly.

Mr. FIFER (McLean). You seem to lay down two propositions. The first, that there is a congested state in the freight movement at this time. Let me ask you if that has not come about in recent years since the war?

Mr. DUNLAP (Champaign). I don't think that the war is entirely responsible for it. It began years ago. It was getting worse. It would have been just as nearly as bad as it is now war or no war.

Mr. FIFER (McLean). That is your opinion. It has not been as bad at any time as it has since the war.

Mr. DUNLAP (Champaign). I beg your pardon.

Mr. FIFER (McLean). You say there is a congestion of freight movement in this country; as bad before the war as it has been since the war?

Mr. DUNLAP (McLean). No, I didn't say that.

Mr. FIFER (McLean). Don't you believe that the war brought about the congested situation in the freight movement of the country?

Mr. DUNLAP (Champaign). Not altogether; no, sir.

Mr. FIFER (McLean). Don't you think it has in part?

Mr. DUNLAP (Champaign). Well, in part, yes.

Mr. FIFER (McLean). Isn't it due to the fact that the railroads didn't have the time or the means; that they couldn't get the help to meet the growing demands of the freight movements in this country?

Mr. DUNLAP (Champaign). Possibly that is true.

Mr. FIFER (McLean). Yes, sir; possibly that is true---

Mr. DUNLAP (Champaign). To a certain extent.

Mr. FIFER (McLean). Now, then, since the war is over isn't it your opinion that the railroads will do the best they can to prepare facilities sufficient to move the freight that would naturally come to them in the regular course of business?

Mr. DUNLAP (Champaign). I don't believe that the railroads in the state they are in today could meet the freight requirements necessary to take care of the business of the country unless they greatly increase not only their rolling stock, but also their lines of railroad.

Mr. FIFER (McLean). That is admitted, but don't you know that it is a matter of common information that the railroads are preparing to increase their facilities in order to take care of all the freight that comes to them?

Mr. DUNLAP (Champaign). I believe they are preparing possibly as best they may.

Mr. FIFER (McLean). Don't you believe that relief will come from that source, from the railroads themselves, long before you can use up the \$30,000,000 in opening up this ditch from Lockport to Utica?

Mr. DUNLAP (Champaign). I wouldn't want to answer that by saying that it would not, but I say this: That the improvement of this canal would add greatly to the transportation facilities of the State in addition to everything that the railroads can do, and we want everything that the railroads can do, everything that can be done under water transportation and everything that can be done by transportation along the hard roads of this State in order to take care of the business of the State. I believe when you use all of these lines that you will have no excess of transportation facilities over what business needs.

Mr. FIFER (McLean). Don't you know that it has been the policy of railroad men to build railroads, and they have gone running around all over the United States looking for places where they can extend their railroad lines and systems and studying out the best methods of transportation? Don't you know that, and that they have kept pace by building lines in advance of any freight movement?

Mr. DUNLAP (Champaign). I want to answer that in my own way by saying that I do not agree that the railroad companies are today acting in good faith in attempting to develop the transportation facilities of railroads honestly and squarely as they ought to do. I believe that there is a movement on the part of the railroads—a desire to first raise the rates on a plea of inadequate facilities to take care of transportation and then after they have raised those rates build up and increase their facilities for transportation over what they are now. And admitting that, and believing that, I do believe we need all the other methods of transportation in addition to everything they can honestly do in order to take care of the business of this country.

When I see freight transportation, as admitted by the railroads themselves, that the travel of a freight car is nineteen miles in twenty-four hours, not quite four-fifths of a mile an hour, I don't want anyone to say to me that transportation by water is slow, because I know when a barge starts down the river if it only followed the movement of the stream it would make at least three miles an hour in most of the waters of this State, which would be seventy-five miles a day, as against nineteen miles by rail. There is no comparison of water and rail transportation. There is no substitution of one for the other. We must have both.

When you provide in the State of Illinois that principle of making it obligatory upon the railroads and the boat lines to take care of the traffic one to the other, with facilities for transferring that, you will utilize both. When you get the canal built, when you get the barge organization started up and down the river, then there will be as busy traffic upon the Illinois River such as I have seen it over in Germany on the Rhine. No one can go down the Rhine and watch the traffic without being impressed with the fact that the European countries are utilizing their waterways to handle a great deal of the freight they have to transport. So we ought in this country—

Mr. FIFER (McLean). I didn't ask you for a speech.

Mr. DUNLAP (Champaign). I thought you wanted a speech.

Mr. FIFER (McLean). I asked you a question. That is your view, that the railroads have intentionally and purposely brought about this congested condition of railroad freight?

Mr. DUNLAP (Champaign). You mean at the present time?

Mr. FIFER (McLean). Well, answer it quickly.

Mr. DUNLAP (Champaign). I think that the railroads are not doing their best to facilitate freight transportation at the present time. That is my belief; I am not making a charge—

Mr. FIFER (McLean). You will not go on a witness stand and swear to that?

Mr. DUNLAP (Champaign). No.

CHAIRMAN LINDLY. Isn't this discussion outside of the question?

Mr. FIFER (McLean). Let us go to the other proposition. The other is, you think if the government would make it convenient to provide loading and unloading facilities, wharves, and so forth, that would restore and revivify the water transportation of this country?

Mr. DUNLAP (Champaign). Yes, I think it would greatly aid in that; yes, sir.

Mr. FIFER (McLean). You do admit the fact, then, that the railroads for some reason or other have practically driven commerce from the rivers of this country, don't you?

Mr. DUNLAP (Champaign). I know it has driven it from the rivers.

Mr. FIFER (McLean). Don't you know that until the traffic did disappear that St. Louis and New Orleans had the very best of facilities for loading and unloading freight?

Mr. DUNLAP (Champaign). Well, possibly I don't know.

Mr. FIFER (McLean). You don't know that? Did you ever see that picture in the Chicago Tribune some years ago headed "Decadence of the Commerce on the Lower Mississippi," and then some more pictures—

Mr. DUNLAP (Champaign). Mr. Chairman, the gentleman objected to me making a speech—

CHAIRMAN LINDLY. The gentleman from McLean: You objected to his making a speech. Will you ask him the question without making a speech?

Mr. FIFER (McLean). I will pass it up. You say that there is a congested condition of freight, and you would hasten the matter up by digging this ditch from Lockport to Utica. Now, how long, if this Convention endorses that, do you think we will be getting that completed and be running boats from Chicago down to the Illinois River?

Mr. DUNLAP (Champaign). I am not an engineer. I wouldn't want to make a statement.

Mr. FIFER (McLean). But you say you have studied this question; you seem to have given it a great deal of thought. You have some idea.

Mr. DUNLAP (Champaign). It took some time in building the Chicago drainage ditch.

Mr. FIFER (McLean). It has been going on ever since the constitutional amendment was adopted. What has been in the way?

Mr. DUNLAP (Champaign). The United States Government has stood in the way.

Mr. FIFER (McLean). Is that still in the way?

Mr. DUNLAP (Champaign). I don't understand—

Mr. FIFER (McLean). Did you see that opinion of Judge Landis in Chicago recently?

Mr. DUNLAP (Champaign). I have heard of it.

Mr. FIFER (McLean). Where he cut down the flow of water—I think it was originally 400,000 cubic feet per minute—to 250,000?

Mr. DUNLAP (Champaign). I saw something to that effect.

Mr. FIFER (McLean). Well, how long at that rate do you reckon we will have to wait on the general government to allow a sufficient flow of water down that channel which would justify the digging of that ditch?

Mr. DUNLAP (Champaign). I think the Governor realizes it would be impossible for me to answer that question. If you will give me the floor for one minute—I didn't finish the statement I was making in answer to one of the Governor's questions. That is this: Why would the provision of transfer facilities be of any particular advantage? It is just the same with the interurban companies in the handling of their freight. The fact that they are not supplied with interchange arrangements with other railroads, other than interurbans, makes them practically a line for the transportation of passengers alone. You take any project that is incomplete, and has no outlet, that is sufficient reason for its failure, and that is the reason I want the transfer of freights to be free and untrammelled between waterways and the railroads. When you have added that you will have added one great addition to the methods of transportation in this State, and I hope that this convention will endorse what the people have endorsed, what the legislature has endorsed and use this money for the purposes for which it was provided.

Mr. FIFER (McLean). I want to ask—

CHAIRMAN LINDLY. The gentleman has answered the question.

Mr. DUNLAP (Champaign). I think we ought to have a full and fair hearing, and I would be glad to answer any question.

Mr. FIFER (McLean). What you say about those facilities would not apply to through freight between St. Louis and New Orleans?

Mr. DUNLAP (Champaign). No.

Mr. FIFER (McLean). Yet that through freight has disappeared from the lower Mississippi?

Mr. DUNLAP (Champaign). Yes, sir.

CHAIRMAN LINDLY. That was twenty years ago.

Mr. CORLETT (Will). Mr. Chairman.

CHAIRMAN LINDLY. The gentleman from Will, Mr. Corlett.

Mr. CORLETT (Will). I wish to say just a word regarding the report of the committee. It has been the policy of the State of Illinois for a hundred years to build this waterway. I didn't suppose that the question of the abandoning or that policy was to be considered by this Convention. I hardly thought that the delegates elected to this Convention would assume that the people had sent them here for the purpose of taking action which would amount to an abandonment of a State policy of a least a hundred years' duration. The people have voted upon the proposition contained in Section 1 of the report of this committee.

A good many who don't like the idea of waterways have attempted to frighten the people into believing that it is going to involve expenditures of millions of money which will be a loss to the State of Illinois; and the debates on the floor of this Convention, when this matter was before the committee on a former occasion ran along the line that the Illinois and Michigan canal had been a burden to the people of the State of Illinois from the time it was started until some years ago, when for various reasons it fell into almost complete disuse.

At the time that the Convention of 1870 assembled the Illinois and Michigan canal was the most valuable piece of property owned by the State of Illinois, and because of that fact the Constitution of 1870 provided that it should never be sold or leased unless the proposition was first submitted to, and approved by, the people of the State of Illinois.

In 1903 the General Assembly appropriated \$152,950 for the purpose of maintaining and preserving this property. A bill to enjoin—

Mr. FIFER (McLean). What property?

Mr. CORLETT (Will). Illinois and Michigan canal. A bill to enjoin the drawing of this money from the State treasury was filed, and the case reached the Supreme Court and will be found in *Burke v. Snively*, 208 Ill., at page 328. In that case an investigation was made to determine to what extent, if any, the Illinois and Michigan canal had been a burden to the State, if it had been a burden. The Supreme Court by a divided—or the opinion by a divided court, held that the money could not be drawn out of the treasury. A dissenting opinion was filed by Justice Hand and Justice Wilkins. I wish to read this—just a few lines referring to the facts upon that question from the dissenting opinion—and permit me, gentlemen, to say that the facts as recited in the dissenting opinion are not disputed by the majority opinion of the court:

"The question presented here for determination is one of legislative power, and the argument that the operation of the Illinois and Michigan canal has ceased to be profitable, and therefore should be abandoned, is beside the question. Such question, if presented for the consideration of the legislature, if founded on fact, might be worthy of possible consideration, but when urged here as a reason for holding the statute unconstitutional is without force. If, however, it is to be given force, the fact should not be lost sight of that the canal thus far has not been a burden to the State, and the evidence in this record does not show that it will ever be burdensome to the State. The original cost of the canal, which was approximately \$5,000,000, was paid for from the sale of lands donated to the State by the general government for canal purposes, with the express understanding that the canal should be forever maintained by the State. From the time of its construction to the time of the filing of this bill the canal had earned more than \$6,500,000, and there now remains in the State treasury, after paying all its expenses and after refunding to the State all moneys appropriated for its use, the sum of \$338,695.76."

That, gentlemen of the Convention, is a legal finding upon the question that has been discussed here at great length and with great earnestness. Now, the question that we have to meet, as I understand the situation, is not that of determining the policy. The question is whether we feel that we are delegated to do what would amount to the abandonment of a policy of this State, which has been the continued policy of the State for the last 100 years.

Now, we have before us the report of this committee, framed upon the theory that the policy of this State is going to be continued, and if we place this matter in such shape that that policy cannot be continued we had just as well do the courageous thing and kill the whole proposition.

I, Mr. Chairman, am in favor of the report of the committee as submitted. I am in favor of neither declaring it the policy of the State to abandon the policy long existing, nor am I in favor of doing indirectly that which will make it impossible to continue that policy. But it has been argued that the Illinois and Michigan canal has fallen into disuse. There is an answer to that argument. It is apparent to everybody how this has happened. It is a matter of common information and I am not going at this time to take the time of this Convention to enter upon an extended discussion of that proposition.

Mr. DAVIS (Cook). That matter has taken a great deal of time before this Convention—

Mr. FIFER (McLean). I want to ask the gentleman a question.

Mr. DAVIS (Cook). I will yield to the question.

Mr. FIFER (McLean). Go ahead.

Mr. DAVIS (Cook). I arose for the purpose of moving that the debate be closed. In view of the fact that the Governor has a question to ask I request that the motion be held until the Governor asks the question and secures an answer.

Mr. FIFER (McLean). Are you acquainted with the Hennepin canal?

Mr. DAVIS (Cook). I have never seen the Hennepin canal, Governor.

Mr. FIFER (McLean). Do you know when it was finished?

Mr. DAVIS (Cook). Yes.

Mr. FIFER (McLean). Do you know where it begins and where it connects with the Mississippi?

Mr. DAVIS (Cook). I do.

Mr. FIFER (McLean). Do you know when it was finally completed for operation?

Mr. DAVIS (Cook). I think I do.

Mr. FIFER (McLean). When?

Mr. DAVIS (Cook). 1907.

Mr. FIFER (McLean). Do you know whether it carried any freight?

Mr. DAVIS (Cook). I don't.

Mr. FIFER (McLean). Don't you know from general understanding and knowledge that it has been practically abandoned and has no freight now?

Mr. DAVIS (Cook). No, I don't know that.

Mr. FIFER (McLean). And there never were but two or three old canal boats that ever went through it?

Mr. DAVIS (Cook). I didn't get that.

Mr. FIFER (McLean). You never heard that?

Mr. DAVIS (Cook). I say I didn't hear your question.

Mr. FIFER (McLean). I say, do you know it is practically abandoned?

Mr. DAVIS (Cook). No, I do not.

Mr. FIFER (McLean). You do not. You know that in order to help out things there Governor Deneen's administration put in a piece connecting with Rock River near Sterling?

Mr. DAVIS (Cook). No; I have very little information on the Hennepin canal.

Mr. FIFER (McLean). Do you know that Governor Deneen went up there to dedicate it?

Mr. DAVIS (Cook). I probably read that in the papers.

Mr. FIFER (McLean). That was about eight years ago. You know that no freight goes through the Hennepin canal?

Mr. DAVIS (Cook). I never saw the Hennepin canal, Governor.

Mr. FIFER (McLean). You never heard of any freight going through?

Mr. DAVIS (Cook). I never heard whether freight went through or didn't go through.

Mr. STEWART (Edgar). If the gentleman from Cook will yield.

Mr. DAVIS (Cook). Yes, sir.

Mr. STEWART (Edgar). Mr. Chairman and gentlemen of the Convention: I was a member of the committee that had the proposal. We had it in the committee, back and forth, for some time, and we studied it and added to it and took from it until we thought it perfectly safeguarded the interests of the State of Illinois, and that it would pass the Convention. There was a great deal said on the floor the first time it was up, that it would help nobody but the people of Chicago. We have heard the word "Chicago" used upon the floor so often sarcastically that it has been a boomerang. If it is to help nobody but Chicago; if it helps none of the people of the State but the people of Chicago; if this expenditure of twenty to thirty millions of dollars helps only the people of Chicago, we ought to be willing, if we can, to help half of the people of the State in Chicago to maintain the sanitary drain and make a system by which we can handle the freight up and down the canal in connection with the sanitary drain, and it is our duty to do so.

Here is the question that has frequently been raised. Men have made assertions on the floor of the Convention it would never be a navigable stream, never be possible to have the barges go up and down the canal, connecting with the Illinois river. The man who did the work of the sanitary drain, Mr. Randolph, said that an eight foot channel was possible to handle the freight and barges up and down the canal to the Illinois River, but if you went beyond that it would be a great deal more expensive. You would have to go clear to the mouth of the Mississippi. Take your old channel, for instance. Many of the great boats that ply upon the Great Lakes, handling tons and tons of freight, that only draw six or seven feet of water. And then, if that is the case—you have heard it mentioned that Judge Landis—an injunction was sworn out before Judge Landis some time ago, reducing the water to about 250,000 cubic feet per minute. Upon investigation of that flow of water into the canal, I find that it is sufficient to handle the freight that would be taken upon and down the stream. Now, I am for this proposition as it was reported out of the committee.

I am not a stumbling block in the way of any improvement offered in any community. I have not been in any community in which I live. It has been my advice to the people who live in my community to always be for every public improvement that comes up, to be public spirited. I was for the first mail route and carried the petition for it in our part of the country. I was for the first hard roads. I am still for hard roads. Coming back to the road proposition, we voted \$60,000,000 for the State of Illinois to build Federal aid roads. Who voted that money? Chicago paid nearly half of the bill to build roads down State, thirty million of dollars. Did you hear any murmur from Chicago? No.

Now, we come to the proposition of spending twenty to thirty million dollars, possibly, in this canal. What is the result down State? A good many men are absolutely against it. I believe in reciprocating, gentlemen, I really do. Be a man among men. Be one hundred per cent to the other fellow and you will always get along. I am for this proposition that is reported out of the committee.

CHAIRMAN LINDLY. The question is on the motion of the gentleman from Cook, that the debate be now closed and a vote be taken upon this section.

Mr. FIFER (McLean). Let us have a fair discussion.

CHAIRMAN LINDLY. This does not close the debate upon the proposition; it closes the debate upon Section 1. Section 2 will be open for debate, so will the other sections.

Mr. DAVIS (Cook). May I state that it is certainly within the province of the committee to vote down the question if they see fit. I ask for a vote on the motion.

CHAIRMAN LINDLY. Yes, your point is well taken.
(Motion lost.)

Mr. KERRICK (McLean). Mr. Chairman.

CHAIRMAN LINDLY. The gentleman from McLean.

Mr. KERRICK (McLean). I have given some consideration to this subject, and so far as I have investigated the subject it appears to me that the powers behind this movement, the reasons for this movement, are not for the purpose of establishing whether it shall be useful or otherwise as a waterway for the purposes of transportation, but that it is rather an effort on the part of Chicago—I am not prepared to denounce it as being a wrongful effort—to relieve themselves from the exceeding difficult and perplexing situation with reference to the sewage created in the great City of Chicago. I happened to be a member of the State Senate at the time this sanitary district was created——

Mr. FIFER (McLean). State Senate.

Mr. KERRICK (McLean). I had occasion to, and did make to some extent a study of that great enterprise. I have a very distinct recollection of what was done in order to bring about the establishment of that sanitary district. I had frequent conversations with Mr. Coolley, for whose great skill as an engineer I have very high respect, and in whose honesty I have profound faith.

In questioning him with reference to the sanitary district I asked him a question to this effect once: "Is it possible for Chicago to obtain for itself pure and wholesome water and also to dispose of its own sewage, without polluting the waters of Illinois, and particularly the Illinois river? He said it was, but it would be enormously expensive. I knew from that that the question turned upon the matter of cost in dollars and cents. I knew of what incalculable damage it would be to the people of the State of Illinois, and to all who subsist on the food products of the great fish river that runs through our State of Illinois. I knew it meant the pollution of that river, not only as a food producer, but as a source of pure water to the hundreds of thousands of people that might see fit to tap that stream. I knew that was of tremendous value, not for a short time, but for all time, so that fact decided my vote against the sanitary district as it did eighteen Senators altogether in the Senate at that time.

I have heard Chicago people, Chicago people of great consequence and influence, fine and intelligent, say it was a great mistake to attempt to relieve Chicago of its human offal and other sewage by means of a sanitary district, so-called, and which resulted in the pollution and the almost absolute destruction of the Illinois River as a river in which fish food might be grown. I have heard many men from Chicago deplore that the sanitary district was ever created, because their vision was such they saw that the time would come some time, and it has been reached in the year of our Lord, in Chicago, in the year 1920, when, because of an order of court, sanctioned and backed by the Federal Government, under which to an extent our State is controlled, commanding that Chicago must not take out of Lake Michigan more than 250,000 cubic feet per minute for any purpose, for waterways, for sewage disposal, or for any purpose.

That has been the attitude of the Federal government from the date that the sanitary district was created down to this hour. It has never shown the slightest inclination to blink or back away from the proposition that navigation—navigation to the extent that the Great Lakes system meant—stood prior in the interests of all the people to the sanitation and the disposal of the sewage of Chicago. They have never flinched an inch from that proposition.

We have heard it more than once—we have been told from time to time that the government has consented, and then we find that that consent means nothing. It is merely an extension of time to do that which in the end Chicago must do, and which many of her citizens now know she must do, to take care of her own sewage by the means and methods that the other towns in the State of Illinois are now by compulsion required to do, to take care of their sewage without polluting the streams and the lake waters.

We have a Lake, Waters and Streams Commission statute. I suppose there are many men in this Convention who do not know what is embodied in that act, but it has a provision by which the commission created by that act can come to the City of Bloomington and because a single citizen on the west side of Bloomington, the direction in which its sewage is disposed of, has demanded it, and order the reconstruction of this sewage disposal, by means of septic tanks, and rebuilding and rearranging the cross drainage, so that we have to go to an expense of \$400,000, and we have absolutely no relief from that mandate; we will have to raise that \$400,000.

Under the same act that provides that every other portion of Illinois shall be within its powers it is provided that the City of Chicago shall be exempt from the operation of that law. And that exemption was got for no purpose on earth save to save Chicago from taking dollars out of its treasury. Every other city, every village and every community in the State of Illinois can be compelled to take money out of their pockets. Chicago was not satisfied with the first provision for exempting it, and a provision was made by a subsequent legislature that elaborated and amplified and specified so that beyond any possibility of doubt Chicago might continue forever and ever to pollute the main river of the State of Illinois and put it in such condition that nobody below Chicago could get a drop of water out of it fit to drink.

There was an attempt toward arrangement between the city of Chicago and Packingtown to divide between them the expense necessary to take care of the sewage of Chicago. A commission was appointed for this sanitary district in Chicago, that part of Chicago outside of Packingtown and the Packingtown interests to arbitrate, and they finally arrived at a point in their negotiations where Packingtown had practically agreed to pay 60 per cent of what was necessary to get over the difficulty Chicago was in with reference to its sewage and the opposition of the Federal government to their present plan. I do not know what has become of that, but if the gentlemen of this Convention will be kind enough, who are so much interested in this proposition to read a little pamphlet here—I will not inflict very much upon you in the way of reading it. It comes from the other side; it is testimony from the other side.

Mr. FIFER (McLean). Report by the sanitary district?

Mr. KERRICK (McLean). By their engineer. It will make your hair stand on end to read about the things they are doing there to the Illinois River and what they have got to do to take care of their own sewage. We can't help it if they have made a mistake as to the way of getting rid of their sewage. They said when they asked for the sanitary district they would run 20,000 gallons of water per minute through the waterway for every hundred of population in Chicago, and they were able to get a chemist to say for them that would be enough, but not too much.

Six hundred thousand cubic feet of water per minute. Now, they are restricted by a power greater than the power of great Chicago to 250,000 cubic feet of water per minute. What are you going to do about it? Is it an effort to make a great waterway out of the little ditch only supplied with 240,000 cubic feet of water per minute? Is it water useful and necessary to the commerce of the State? Can it ever be made to pay the interest on the investment of thirty millions? Is it not, on the other hand, a means adopted by Cook county—I am not blaming them, I am not accusing them of wrongful methods; if I were in the same fix I would do the same thing—but isn't this back of that movement, to put upon the State of Illinois the expense of helping Chicago out of its muddle in which she put herself voluntarily? She should have known years ago; have foreseen and provided against this desperate situation she is in now.

They cried out and fussed about this decision of Judge Landis the other day. Whose fault was it? They have allowed the years to run by; they have not provided for this thing. They have evidently based their hopes that some time or other they would get some relief out of somebody else's pocket other than their own. Maybe that is natural. I am not saying if I

were in Chicago I wouldn't be in sympathy with this movement. I might be able to believe it was good for the people of the State at large.

But, gentlemen, this is not a waterway proposition. How can you expect to have waterways out of 250,000 cubic feet of water per minute, and that going through a channel which is now surcharged through almost its entire length of this proposed waterway with sewage and sludge in enormous quantities?

Do you know of the fourteen foot part on this which they had put in to keep up the pretence of a waterway; that fourteen part in the rock, part of it eighteen? Do you know that is as useless as if there never had been a spade stuck into the ground or a ton of rock dynamited? It is filled with sludge. These reports here say so. And they say that there is not sufficient current to carry the sludge further down to any great extent. They also say, through the mouths of their own experts who have been examining this for them, that this sewage is temporarily lodged in Lake Peoria, a great pan there about twelve miles long, with no current, and one and a half miles wide. And they say that the time is coming, and is liable to happen at any time (after admitting that it is not fit for fish to live in) that when a flood pulls that situation loose it will destroy the Illinois River through its entire length as a stream in which fish can live. That is right here in their own language. There are gentlemen here who must know this.

In the first place, they didn't deceive us intentionally in getting the sanitary district, but they deceived themselves. They deceived themselves, among other things, in not getting anything like as much water as they needed. They had to widen the Chicago River, but they will have to do a lot more before they can ever render the sewage innocuous.

They also provided that no solid should go into that sewage, and yet year after year Bubbly Creek has been not only a stench to Chicago, but a stench to all civilized people that come to Chicago. That stream is filled with solid rotting, putrefying material that comes from the stockyards.

Chicago has made the greatest mistake that any body of people ever made in the world that they didn't buckle down and get their sewage taken care of like the cities of Europe forty or fifty years ago. Chicago is big, but it can never be a really great city unless it takes care of the filth that necessarily generates in any community without loading it upon the people of this State and polluting our rivers, and causing incalculable damage from overflows, which all lawyers know are never compensated for. In some manner the litigation was so conducted in this matter that the people who went to law under the provisions of the Sanitary District Act came out the losers in pocket because of the ridiculous and insufficient amount of damages, as compared with the cost of trying to get their rights.

These are facts. They are not vagaries or imaginings, and they are supported by proof out of the mouth of the other side. I don't say this with any ill will toward Chicago. I have a great admiration for Chicago. I am glad to live in the State that includes Chicago. I have many good friends in Chicago. I am a friend of Chicago, but I am not a friend of everything that Chicago is a friend to. I can't be. They will have no good city, they will have no great city, they will have no clean——

Mr. SHANAHAN (Cook). I would like to ask the gentleman a question.

CHAIRMAN LINDLEY. With the permission of the gentleman.

Mr. SHANAHAN (Cook). I would like to ask him when Chicago has ever asked the State of Illinois to pay any of its debts at the present time, if he knows whether Chicago is asking for anything?

Mr. KERRICK (McLean). Yes, she is asking us to set our seal of approval——

Mr. SHANAHAN (Cook). Can you show me where Chicago is asking for anything in this bill?

Mr. KERRICK (McLean). I have not heard any Chicago men opposing it.

Mr. SHANAHAN (Cook). Has Chicago officially asked for that?

Mr. KERRICK (McLean). Are you not going to vote for it?

Mr. SHANAHAN (Cook). You are charging that Chicago is asking for this.

Mr. KERRICK (McLean). Does Chicago want this measure? I supposed they did. I am assuming Chicago wants this.

Mr. REVELL (Cook). I want to ask the gentleman a question.

CHAIRMAN LINDLEY. With the gentleman's permission.

Mr. REVELL (Cook). Just one question. You stated you have opposed this from its inception, from the time that waterways and the sanitary provisions were first started.

Mr. KERRICK (McLean). I didn't say——

Mr. REVELL (Cook). I understood so.

Mr. KERRICK (McLean). I was trying to find out the right about this Sanitary District. I have great confidence in Mr. Cooley, the engineer, and I became very much impressed with his knowledge about this sanitary district, and I asked him questions about it, and when he told me that Chicago could take care of its sewage without polluting the Illinois River and the down State waters, and could also procure good, pure and wholesome water for its people, but at enormous expense, I couldn't in my mind see why they should not go about doing that, instead of imposing a burden, without imposing these conditions down State that have existed since they established the Sanitary District.

Mr. REVELL (Cook). You therefore opposed it?

Mr. KERRICK (McLean). I did. I have opposed it, and I have heard many Chicago persons, after it was said that thing could be done for eighteen million dollars, and after it got to be three or four times that, many Chicago men told me they would better have used that money to get rid of their sewage in another way.

CHAIRMAN LINDLY. The question is on the adoption of Section 1. Are you ready for the question.

(Carried.)

Mr. SHANAHAN (Cook). Mr. Chairman.

CHAIRMAN LINDLY. The gentleman from Cook.

Mr. SHANAHAN (Cook). I move that the committee take a recess until two o'clock.

CHAIRMAN LINDLY. Moved that the committee recess.

Mr. SHANAHAN (Cook). And that the committee arise and report progress.

CHAIRMAN LINDLY. The gentleman from Cook, Mr. Shanahan, moves that the committee recess and report progress.

(Motion adopted.)

(President Woodward, presiding.)

Mr. LINDLY (Bond). The Committee of the Whole, having under consideration Section 1, recommends the adoption thereof, and asks leave to sit again.

(Report of Committee adopted.)

Mr. HAMILL (Cook). I move the Convention do now recess until eight o'clock.

Motion prevailed, and the Convention took a recess until eight o'clock of the same day.

8:00 O'CLOCK P. M.

The Convention met, pursuant to adjournment.

Chairman Lindly (Bond) in the Chair.

CHAIRMAN LINDLY. Section 2 of Proposal 377 being up for consideration, the clerk will read the section.

(Section read.)

Mr. WILSON (Cook). I move the adoption of Section 2.

Mr. FIFER (McLean). Mr. Chairman, it seems to me that some friends of the measure ought to explain—possibly some member of the committee—the reason for this extra ten million. If not, I would like to say a word on that question before we proceed.

Mr. WILSON (Cook). I was rather hoping that our friend from McLean would talk first. The section, Mr. Chairman, I think, explains itself. I think the reason for it is the economic situation of the country today. The prices of material and labor have so largely increased that the committee feels, after consulting with the Department of Public Works, that it may cost a great deal more than the original amount appropriated.

Mr. FIFER (McLean). You think ten millions more will do?

Mr. WILSON (Cook). When I get through, Governor, I will be very glad to have you ask me some questions. That is the main reason for framing this section. I believe your committee would not have felt called upon to add a section asking for more money if the economic condition of the country had not changed.

Mr. FIFER (McLean). Have I the floor, Mr. Chairman?

CHAIRMAN LINDLY. You have, if you ask it.

Mr. FIFER (McLean). Gentlemen of the Convention, I am opposed to section 2. I was opposed to section 1, as you have become aware, but I was defeated and I am a good loser. I make my bow to the majority and submit. When section 1 was under consideration I attended a certain meeting of the committee and we had a little banquet, and what happened there? This proposal was not submitted to the committee at that time. There was a meeting of the committee afterward in another room here, and I think there were some thirty or possibly forty members. I rather judged, from the makeup of the guests who were invited, that they were doubting Thomases. Possibly it was not known just where they stood. This proposition was submitted. I objected, and so far as I remember, I was the only objector. As I came out of the committee room, I met a gentleman connected, I believe, with the Public Works Commission, in some way and he clasped my hand in a friendly way and said, "Fifer, we're going to beat you in the end." "Well," said I, "possibly you will. I rather think you will. I've been used to defeat," I said, "but you may have some trouble with it before you get through." Like the gentleman who was walking along the street one day and seeing a boy climbing a tree to catch a bird. When the bird would fly away and light in another tree, the boy would climb down that tree and go after the bird again. He did that a few times, and the man said, "My son, you will never catch that bird." He says, "I know I'll not catch the bird but I'll worry it like hell." Even though I am defeated, I shall worry them a little bit before they get through.

I recognize, as my friend said here, that his committee have done possibly as well as they could. It was in April, as I remember it, that this committee presented an altogether different report, and from that time until today this committee has been tossed upon the billows of an angry sea, and their experience reminds me of Mark Twain's description of a canal boat in a storm: "She heaved and sot, and sot and heaved, and high in air her rudder flung and the more she heaved and sot, the 'wusser' leaks she sprung."

Now, Mr. Chairman, I want to do my duty here as a member of this Convention, and when I do that I shall let consequences take care of themselves. I have accustomed myself in life, when great emergencies arise to do my best. When I am defeated I turn my back on the incident and try to forget it. Now, coming to the point at issue: Let me tell you, friends, this fact, and then do as you believe, as I know you will: When this question of the Chicago Drainage District was before the General Assembly in 1889 I happened to be the executive head of the great State of Illinois. I told you before that the gentlemen came down from Chicago in twos and threes and in fours. The distinguished Joseph Medill, the proprietor and editor of the Chicago Tribune, was here, and there were two questions, two theories of taking care of sewage before that committee. One was the theory that is

adopted in all the great cities of Europe. I invariably went before the committee during the time of these hearings. All the plans were proposed and discussed, and one was to take the sewage, run it through the septic tanks, make fertilizer of it and sell it to the owners of real estate. There were many big sensible men from Chicago who believed that was the proper theory. They did not go before the committee and say it, but they would slip in my office and tell me that they did think so. The other theory was the one that they finally adopted. The question then arose as to whether they could make a stream sufficient to carry water enough to dilute that human excrement and other sewage coming out of that great city. They had some of the great engineers from Chicago and other places here. They had chemists, and they told how far sewage of that kind would have to float before in the atmosphere it would be purified and rendered harmless. Chemist after chemist said they thought that with 300,000 cubic feet of water each minute it would be ample to purify and dilute that excrement so that it would not be offensive and dangerous to the people living along the valleys of the DesPlaines and Illinois Rivers.

Now, gentlemen, that worried me no little. There was the great City of Chicago. They said their people were dying because the water was poisoned by the sewage that was being emptied into the lake. I took a number of those chemists, not satisfied with what they testified to, to my office. I said, "I want to know about it, whether if less than 300,000 cubic feet is hurled into that canal it will purify itself." They told me there that they thought it would, and explained to me the effect of the atmosphere upon refuse matter of that kind. I wanted to do what was right by the City of Chicago. I did not want to see human beings poisoned in that city any more than I wished to see it along the valleys of those rivers. After a thorough investigation they promised over and over again that they would turn into that ditch 300,000 cubic feet of water every minute and would increase the flow as the city grew. The chemists told me they thought that would dilute it sufficiently to render it harmless. I said, "Then I will sign."

I believe the gentlemen from Chicago that appeared before the committee came in good faith. I believe that they believed they could turn into that ditch 600,000 cubic feet of water. I believe that they believed, as these chemists believed, that with that amount of water and the sewage coming down there would clarify itself. They told me this and showed me books of other lands besides our own where the thing has been accomplished, and I was persuaded and I believed that it was my duty to sign that measure.

When they dug the ditch, they were then confronted with a higher power than their own, and they were told that they could have only 450,000 cubic feet per minute. I believe that they were willing to dig the ditch deep enough, but the Government would not permit them to turn in the water. As Senator Dunlap has testified, when I asked him the question, "Don't you know that twelve years have passed and nothing has been done? What occasioned this delay?" He told me that it was the interception of the Government of the United States. And they have been waiting 10, these twelve years.

They have told the truth about it, about the times that they went to the City of Washington in regard to this. I don't know whether they have told it all or not. I am inclined to think they skipped a little. I must be permitted, without offense, to speak plainly, my friends, and I want to say, not only to my Chicago friends, but to all the delegates here, that you have treated me so kindly since I came into this hall, that I cannot find it in my heart to say one word that would ruffle up your feelings or offend you in the slightest. My treatment here has touched me deeply from the

first day that I came into this hall down to the present time, and I am going to talk to you seriously and truthfully about this matter.

Now, they were confronted with the fact that they could not get the water, and that has been the stumbling block ever since. When this matter was up before, our good friend, Mr. Bennett, who is at the head of this department, came into this hall. I think my friends here went down and got him. Anyway, the delegate from Edgar arose and said that Mr. Bennett was here and would like to be heard. He went upon the witness stand and told the story. I asked him why they didn't proceed with this business. The Constitutional amendment was passed in 1908—twelve years had elapsed. He told me the same story as was told by the senator from Champaign—that the Government had interfered. He told me that they had made repeated trips to the City of Washington. They had seen the Secretary of War. They had consulted the engineers, and the practical part of his testimony was that they had been turned down; they did not succeed in getting what they went for.

I lived in the City of Washington for seven years. Our engineers, connected with the Interstate Commerce Commission, knew the other engineers of the Government, and in that way I came in contact with them. I knew that this question of a deep waterway from Lockport to Utica was a mooted question in Illinois, and they told me, and on their judgment the Government of the United States will rely, that it never could be done and that there was too much water now being taken from Lake Michigan, and, furthermore, they regarded the idea of a deep, waterway from Lockport to Utica as a joke.

And you never will get sufficient water. Now what has happened? When the city grew as now 600,000 feet of water was promised. We never got more than 450,000 feet—and I rely on my friend from Joliet for these figures—he says it is about 450,000 feet—that was the most that was ever turned in. Only a few days ago the United States Court of Chicago reduced that flow from 450,000 to 250,000, cutting it almost in two. We had been promised at this time 600,000. The chemists had said that with that amount sewage could be treated so as to make it not dangerous or offensive to the people of the valleys below. Now then, when is the decision of Judge Landis to be reversed? I tell you that you may send your interested parties to Washington, but whenever you send a delegation of that kind, they come back with the same story.

When Governor Deneen was the executive of this State—a gentleman for whom I have the most unlimited respect—a report was made and printed by the engineer of the State and others about what was done up there during Gov. Deneen's term of office. I could read it, but I shall not take the time to do it. They talked with President Taft, then they corresponded, then they played hide and seek, up and down the gussets and seams of their summer overcoats about the ditch, and it was agreed that the president should appoint a committee, as I remember it now, of engineers, and they were appointed, and they took this thing in hand, and they rendered a report. It was such a report that our people flew into a rage and condemned the commission that passed on the question. I speak by the record. It is there, on my desk. My friend here (Mr. Shanahan, Cook), takes exception to this remark. My friend, I am not going to hurt your feelings. I think you are unusually sensitive. The other day you said you would be to blame if we limited Chicago in the legislature. You are a little like a lawyer, who had a divorce case, and he had some letters, a great pile of them, and they were written by somebody and he wanted to find out who it was. He took it to be the woman on the other side. The lawyer for the man in the case subpoenaed an expert, and the expert came in with his microscope. The lawyer said, "Look over those letters carefully under the microscope." He did. He says, "Now examine this garter; examine it under the microscope." He did so. "Now," he says, "You tell me whether the woman who wore that garter wrote those letters."

He says, "I don't see any connection between the two." "Well, ain't you an expert?" "Yes." "Well, you're a devil of an expert if you cant tell that. If you can't tell that I can't put you on the stand, and you can go."

Mr. SHANAHAN (Cook). Does that apply to your being an expert when you signed the Water Way Bill?

Mr. FIFER (McLean). I take my share of it. They, the people, like you and they believe in you, but I cannot see much more connection between your guilt in the case stated than there was between the letters and the garter.

Mr. SHANAHAN (Cook). Or your guilt when you signed the Drainage Bill in 1889.

Mr. FIFER (McLean). Well, I will take it to myself, too. I will share it with you. I signed it in 1889, as I remember it.

Now, gentlemen, I feel seriously about this matter. I signed the bill with the full understanding that there should be 300,000 cubic feet, with an increase as the city grew. We only have had 450,000 and now it has been reduced to 250,000. What kind of a position does that place me in?

Mr. REVELL (Cook). I would like to ask you what condition the canals and waterways that flow through here are going to be in, under the decision of Judge Landis which allowed 250,000 cubic feet a minute?

Mr. FIFER (McLean). You ask Omniscience. I can only give you my opinion—that they will become foul. The Illinois is going to come to that. It has killed the fish already as far down the river as Peoria.

Mr. REVELL (Cook). You have been asking for definite answers here today. I would like to get a definite answer from you. How do you regard the navigable quantity of water in those streams under the decision of Judge Landis restricting to the use 250,000 cubic feet a minute?

Mr. FIFER (McLean). I think it stands to reason that it will increase the pollution of the DesPlaines and Illinois rivers.

Mr. REVELL (Cook). I want to say, Mr. Governor, that if you don't know, then you are trying to persuade these delegates upon simple and fallacious theories. I can tell you just what the situation will be.

Mr. FIFER (McLean). You will have a chance, my friend. I have listened to your beautiful address here today, and the sentences were chiseled out, and I sat in wrapt attention as you unwound those beautiful sentences. I was charmed by your well timed periods and your flashes of rhetoric. I was still more charmed by the great imagination that you exhibited, and this is no flattery. Why, you swept the whole country in your imagination. The gleaner in the fields, the coal mine, you scurried up and down the cities and the great marts of trade all over this broad land. It showed a wonderful imagination, and I thought then to myself, "the world has lost a great poet in order to make a fine business man." In the time of Roman greatness there lived a man who was an habitual criminal, but he was also a great poet. They would hail him before courts frequently and convict, only to have him turned loose by the authorities, because he was a great poet.

Now you understand the situation today. If Chicago had remained the same through all time in population that it was in 1889 this stream might have borne the burden and carried it through to the Mississippi river in safety. Chicago, however, is destined to be the greatest city, not only of the continent, but of the world, and I can convince you of that fact and show you that you can never dig a ditch there that will carry the sewage of the future of that city. Take the State of Illinois. It stretches from the Lakes to Cairo, nearly 500 miles. When you travel from ocean to ocean there are only two gateways across the American continent. Both of them are in the State of Illinois. The one is Chicago and the other is East St. Louis.

Now, about Chicago. There is no gateway from ocean to ocean in Illinois between Chicago and East St. Louis. There is none at Memphis; there is none at Vicksburg; there is none at Natchez; there is none at New Orleans. The Southern Pacific Railroad has the Morgan Line of steamers running along the New England coast to carry freight and dump it into

great warehouses at New Orleans, and there it is picked up by the Southern Pacific and carried across the State of Texas, and enters California from the south, and thence it is distributed all over the Pacific coast.

But that is not a gateway. You take the map of this great northwest, and you will see that Lake Michigan pushes the travel down to Chicago, and they must go around Lake Michigan, and that is to be one of the things that is to make the future of that great city. If you will read Macaulay's History of England, he tells us what makes a great city. It is not fifty miles around or one hundred miles. It must be the bowels of a great vast territory that runs its arteries of trade thousands and thousands of miles. That is Chicago. You take all the bonds and mortgages between Chicago and the Pacific ocean, those that are on the market find their places in the coffers of that great city. They take nearly all of Indiana and more than half of the states of Ohio and all of Michigan and all of Wisconsin. It is the bowels of a great country, the richest, the most fertile, the most beautiful land beneath the sun today, besides being the freest.

Now, let me ask my friend here what will be the population of Chicago fifty years from now. What will be the population of that great city a hundred years from now? Only Omniscience and my poetic friend here can forecast it because it takes a man of vision. No ordinary man can foretell those things. Now, with the water at Chicago being reduced, and the city growing year by year to those gigantic proportions, what is to become of the sewage of that city? I ask you as candid men. This is a question with which you are face to face, and as practical men you must deal with it.

The officers and engineers of the Sanitary District have joined in a report, and they have said to you and to the world that some other remedy must be adopted. I am not saying that; they have said it themselves. They have said in that report that all the fish in the Illinois river have been killed down to Peoria, that the Peoria lake, 12 miles long and about a mile and a half average width, has served as a sort of safety valve. They say in that report, and you cannot talk intelligently upon this question unless you read it—that that lake is filling up. They say this deadly sewage has gone down the river on an average of six miles a year. It has reached Peoria, and they say in that report, if my memory serves me right, that as soon as the lake is filled, it will continue to progress at the rate of six miles a year, and it will soon kill all the fish in the Illinois river.

Gentlemen, the scientists of the Illinois university will tell you that the Illinois is the greatest fish producing river in the world except one, and that is found in Russia. Thousands and thousands of poor people are making their living out of the business of fishing on that river. My friend here knows it to be true. It has been an enormous source of revenue.

But let me ask you, friends from Chicago, with your increase of population and your reduction of water, how long is an Anglo-Saxon people, the game cocks of the world, going to submit to a thing of that kind? You know the crisis will come. Possibly it may not come until it gets so bad that thousands of our fellow citizens are carried off by an epidemic. My good friend here from Joliet seems to enjoy good health yet. Possibly he has become accustomed to it. Let me pause to say this, without offense. The great Herbert Spencer of England, wrote to his friends of science in this country and throughout the world—because he knew them all—and wanted them to give a definition of life. John Fiske, the great historian, philosopher and scientist of America gave him this answer: Life is the adjustment of an organism to its environment, and that was accepted by Spencer as the best answer that he had received, the adjustment of an organism to its environment. A fish is an organism. It becomes adjusted to its environment or it must die, and that is the law that controls all animal life. If you cannot adjust yourself to conditions, you cannot exist. So the fish has become adjusted, man has become adjusted to his environment, and he can live only on the land. During the great eccentricities of the earth, when it got out

of plumb in its course around the sun and it did not tip over just right it brought the North Pole almost down to Illinois. The inhabitants then had to become adjusted to their environment or die, or else they had to go South.

Now I make the application. Some of my good friends living along that valley have smelled those delicious odors so long that they have become adjusted to their environment. Instead of being offensive, they seem to enjoy them. My good friend from Peru, a gentleman for whom I have the highest regard, a gentleman springing from a race which has been conspicuous in every conflict in which patriotism has drawn sword in defense of human rights, a race, too, that is in control of nearly every country in the world except its own—and we are in hopes that it will be in charge of that very soon—he, too, turned against me when this question was up before. As I sat in that chair, I knew the array that would appear against me, and I turned back and looked at my friend from Peru. I saw his firm-set teeth. I saw his flashing eyes, and I said to myself, and in my mind, to you gentlemen that were trying to put over this measure, “Wait till the gentleman from Peru is heard and you will find him ready to break a lance with you and hurl you to defeat.” And lo and behold, when he arose he was against me. I said, “Et tu, Brutus.” But my heart did not fail. I did not wrap my mantle around me and look for a convenient place to fall, as did the great Cæsar, but I still stood erect, and I am still in the fight and will remain until the last.

What are you going to do about this thing? There is the situation. You know that the time is not distant when you must take care of it. The officials in charge of this matter have said so. Is it necessary for me to argue that under those circumstances it is a foolish, almost a criminal thing for us to appropriate thirty millions of dollars to dig that ditch and to erect manufacturing establishments between Lockport and Utica?

Now, what have we to sacrifice by stopping this thing where it is? We do not own any land. We have no investments there, not one dollar of that money has been expended, and, if Chicago takes care of its sewage on the plan that all the great cities of Europe have adopted, they will have no use for the drainage ditch, and that is what it is coming to, as surely, gentlemen, as you sit in those chairs. What will the United States government do then? They have yielded the utmost quantity in order to secure the health and the well being of that great city, more, perhaps, than they should.

For twenty years past I have gone to Charlevoix to spend the summer. I have a little boat house there and a little platform to get into the row boat, and as the season progresses the water goes down and down, and we have to get other steps, and it is universally said that it is the drainage ditch at Chicago that causes it. I asked my friend who sits in the Chair there about that. He practically admitted it. Well, what are you going to do? His remedy was to dam up the water at Niagara Falls. I said, “Great God, man, what will the people say down at Niagara Falls?” He said, “Well, we will stop the flow of the water at Niagara Falls as much as we take out of it at Chicago.” So, gentlemen, you are going to spend thirty millions of the people’s money on the faith of your ability to stop the flow of the water at Niagara Falls. Well, we have no riparian rights on the Desplaines river at all. The last General Assembly, as my friend well knows, passed a law giving to the State the power of eminent domain to condemn that property and take it away from the owners. Oh, what picking there would be for a lawyer if those condemnations go through, and how the money would fly. I am not saying dishonestly. I am attacking nobody, but I must be permitted to call a spade a spade or my words go for nothing. Our interest there reminds one of what Lincoln said respecting an argument of his opponent, when he said it was as thin as soup made from the shadow of a starved pigeon.

And yet the proposition to dig that ditch and erect these stupendous manufacturing establishments is made, and when the City of Chicago will

get to taking care of its sewage as they do in Europe, the Government of the United States will stop that flow of water altogether, and they will say to you men down there that if you were damned fools enough to spend thirty millions in establishing those plants then you will have to take the consequences.

I talked with congressmen who were interested in this matter, and there are four states besides ours—Indiana, Michigan, Wisconsin and Minnesota—eight senators in all. Do you suppose that the senators and congressmen of those states are not going to be consulted as to this? That is the element that our friends who have gone to Washington from Chicago has to deal with, and it is a strong influence. When the people from Chicago go to Washington to consult the authorities and lay their case before them, they are met by these influences. We will settle this flow of water at the request of the representatives of the other states, they are told. And if they object, you might as well build those factories in the Sahara desert; you might as well go out here on the plains this side of the Rocky mountains and build. They will stand there as an everlasting eternal monument to our folly.

Now, my friends here have talked at great length about the necessity of water communication, that the traffic is in a congested condition. Oh, friends, use a little common sense, please. A man who has no brain, if he only has a little gray matter at the end of his spinal column, will realize the folly of that position. Take the Hennepin Canal. Don't you know that the papers of Illinois teemed with the importance of the Hennepin canal? The Chicago papers were full of it. The Hennepin canal starts on the Illinois river, at the little town of Hennepin, just below LaSalle and goes about 75 miles and empties into the Mississippi river just below Rock Island. Ask the delegate from Peoria what great things were to come from that canal. The congested condition of traffic movement was to be relieved and the course of commerce was to flow up and down the Hennepin canal from the Illinois to the Mississippi. Now, gentlemen, what happened? It cost, if I remember, between twelve and fifteen million dollars. I have been told by my friend from Peru and the other delegates that there has never been, in the eight years since it was finished, a half dozen boats that have gone through that, and it is abandoned, and the government has to provide large salaries for guardians to keep the boys from caving in the banks while they are fishing.

We are in a position to stop this thing right now. These gentlemen are not content even when they are confronted by the facts and circumstances which I have truthfully set forth in your hearing. They are not content with twenty millions of dollars, but they want ten millions added to it. What citizens of this broad State of ours supposed, when they sent us to this hall, that we would load upon their shoulders a debt of ten million dollars added to the twenty millions already provided?

I have not had much to say about the defeat of this Constitution. I do not like that kind of talk. While I feel sometimes a little embittered at things that have been done here, things that I feel would endanger the Constitution, yet I have held my tongue. I do not like for a man, either in private or public, to come at me and hold over my head a threat. I do not like to retreat from a proposition at the point of a bayonet, but I do say to you, in my judgment, and I think I know the sentiment of the people of this great State possibly as well as any man who holds a seat in this Convention, that nothing has been done and nothing could be done in the future that would meet with more opposition than this matter of adding ten millions of dollars to the money that we have already provided. Gentlemen, let me say confidently that this thing will prove a signal and a disastrous failure, so much so that I would be willing now, on behalf of the people, as far as I have a right to represent them, to compromise on this question and say, instead of making it ten or twenty millions, I would make it a hundred million. I will vote for it now if you will place a provision in the Constitution that not another dollar shall be taken from the State treasury

for that improvement, for the digging of that ditch, or for any other purpose connected either with the ditch or the manufacturing establishment, and I would go to my bed tonight conscious that the State of Illinois had made the best bargain it ever made.

I have had a lot of experience. I have bumped up against the sharp corners of the world. I was twelve years old when I had to float my own bark and make my own living. I trust that from this experience I have had a little common sense bumped into me, and it is my belief that if something is not done now, if we place upon this proposition the seal of our approval, we will never get out of it short of an expenditure of half a billion dollars. You will continually have to dig deeper. You will have spent large sums of money and that will be used as a leverage to squeeze out more money, and you will never reach the end until the people realize that they are up against it and then rise up in angry protest. Let me tell you, gentlemen, when it reaches the tiller of the soil, the man of the fields, the farm districts, you will have something to deal with, in my judgment.

Think of it for a moment. You dig that ditch and you erect those factories in the faith that the water will come down. When will you get the manufacture of electricity and find a market and pay the running expenses and then have a balance in the treasury of the State of Illinois? Now, friends, you have already decided, when you adopted the first section, to secure to this concern the twenty millions that the people have voted for. Are you willing to add to that another ten million, and then remove all constitutional restraint? That does not constitute a safeguard at all. Friends, please bear with me when I call your attention, as I did when I was on my feet once before, about this State being made bankrupt by such mulberry-sellers' schemes as this. They improved the Sangamon river at one time when Lincoln was a young man practicing law in Springfield, and in a flood tide a stern-wheel boat came along from Cincinnati and landed out here in the Sangamon river, and they were all so rejoiced and happy that they had a banquet, and while they were banqueting the Sangamon was going down, and when they got out to look at their boat, it was found in the limbs of the trees, and they went down and made her loose and she floated down, and that has been the last boat that ever came up the navigable stream of the Sangamon. They improved their rivers, and then the same stuff was said about the Hennepin canal that was said about the Illinois and Michigan canals. It was going to do wonders. I will be fair and say that the Illinois and Michigan canal has served its useful purpose, and ought to be abandoned, and is abandoned, as every man acquainted with the circumstances knows.

The people that came to Illinois came down the Ohio, they came up the Mississippi, they came down the Tennessee and the Cumberland rivers, and from the mouth of the Illinois they went up to Peoria and LaSalle and they distributed themselves for miles on either side. That has all ceased and it has ceased forever. But the result was that the State was being made bankrupt by these internal improvements, and the best men in Illinois said we would have to repudiate our debts. Judge Davis, of my own city, who was afterwards one of the justices of the United States Supreme Court, was one of the brave men who said we could never endure that disgrace, that we have a fertile soil and great resources and must pay that debt, and we did. All praise to those men who caused the payment of an honest debt and who saved the credit of our great State. When the Constitutional Convention of 1870 met, they said, "We will close that door and have no more of it." In 1908 you opened that door a little. In the light of the history of our State in regard to those things, you take that constitutional amendment and read it, and then say to me if you do not agree with me that it is the most novel, the most wonderful amendment to a Constitution that has ever been endorsed by a free people in the history of the world. If the State could secure the original manuscript in the handwriting of the man who wrote it, it ought to be preserved as an everlasting perpetual monument of the folly and stupidity of the people who, in the light of

those circumstances, passed it. But if you want to stand by it, stand by it, gentlemen, but, for God's sake, let us not go a step farther.

Let us place this whole miserable business in a position where the great people of our great State can rest securely in the belief that it is in a state of ultimate extinction.

Mr. CORLETT (Will). In regard to Section 2, Mr. Chairman, I wish to say just a word. It is not an appropriation of ten million dollars, or any sum whatsoever. It is simply an authorization to the General Assembly to appropriate to that amount in the event that the twenty millions authorized by the amendment of 1908 should prove insufficient. That additional authority is asked for the reason that everyone knows perfectly well that twenty millions will not accomplish the work at this time that it would at the time when that sum was authorized in 1908.

The delegate from McLean has spoken about the indebtedness of the State in early days. It is true that the State of Illinois at one time seriously considered repudiating the debts that it made, and great credit is due to those men who had the courage to stand firmly and pay the debts. The one incident that contributed more to the near bankruptcy of the State at that time than anything else was an appropriation of some five or ten million dollars for the building of some 1,300 miles of railroad, which was about half of what was necessary to complete the railroads laid out, and the building of it was started in different parts of the State, and not having sufficient money to complete what was laid out, the State of Illinois received for the money appropriated and expended parts of track here and cuts there and very little railroad of any value whatever. Now it is a matter of economy, as I see it and a plain matter of business, whether we shall authorize the General Assembly to appropriate additional sums to cover the increased costs of today as compared with ten or twelve years ago. If we are going to start this enterprise, we should be courageous enough to leave in the hands of the General Assembly the power which will enable that body to complete the work, at least as far as twenty millions would have completed it in 1908.

The gentleman from McLean has a lot to say about the sanitary conditions and about the problems of Cook County in regard to sewage disposal. Gentlemen, I submit that the problems of Cook county are not involved in this proposition. They have absolutely not a thing to do with it, in any sense whatever, nor has the fact that Judge Landis reduced the amount of water to be taken from Lake Michigan to 250,000 cubic feet. What has that to do with it? It is true that Chicago will have to do something with that sewage, but we are not here concerned with those troubles which are peculiar to the City of Chicago. The gentleman from McLean says that when Chicago has found some other means of disposing of her sewage, the Government may refuse to allow any water to be drawn from the lake through the sanitary district. I have more confidence in the good faith of the Government than to suppose that the Government will do any such thing. It is only within the last six months that the Government has approved a plan for the taking of this water, approved by the War Department, and now are we going to assume that the Government of the United States is going to approve this plan and then, when the work is completed, refuse to permit us to draw the water, shut off the water entirely from the Sanitary District and from that down through the waterway of the Illinois river? The gentleman speaks of what was promised at the time that the Sanitary District Act was before him when he was governor of Illinois, and he speaks about a promise of 600,000 cubic feet of water per minute. I do not find it in the Sanitary District Act. I have found in the act a provision for 300,000 cubic feet.

Mr. KERRICK (McLean). Has the Chairman of the Sanitary Committee read the act recently? You will find that it provides that it shall not be less than 20,000 cubic feet for every 100,000 of population and with a population of three million that would make it 600,000 cubic feet.

Mr. FIFER (McLean). I want to say, because my word is out there, that was all talked over, and it was agreed that up to three million it was to be 600,000, and that is what we are entitled to under the agreement and under the law.

Mr. CORLETT (Will). If there are three million people in the district.

Mr. FIFER (McLean). That's just what I said. Chicago in 1860 had only about 125,000 to 140,000 people while the State had 1,700,000, and that shows the rapid increase that has taken place in the city in comparison with the rest of the State, and it is going to overtake it.

Mr. CORLETT (Will). I have the act before me, and I understood you, when you were speaking, to say that they had promised 600,000 feet.

Mr. FIFER (McLean). I do not see how you can be mistaken as to what I said.

Mr. CORLETT (Will). I will admit that I am mistaken if you did not say so.

Mr. FIFER (McLean). You may be mistaken, but I do not want you to be mistaken. I said we never had more than 450,000, and now it is cut to 250,000 and we are entitled to 600,000.

Mr. CORLETT (Will). They are drawing as much water there now as they can use. But all this is beside the question, whether the Sanitary District has been able to comply with this act or not. That is a matter that we are not dealing with today.

Mr. KERRICK (McLean). You remember that Mr. Bennett was here-do you not, in relation to this?

Mr. CORLETT (Will). I was here when Mr. Bennett was here.

Mr. KERRICK (McLean). You know, do you not, that sometimes this flow of water is computed by seconds and sometimes by minutes?

Mr. CORLETT (Will). Yes.

Mr. KERRICK (McLean). You know that Mr. Bennett, when they were talking about how many cubic feet per second could go through——

Mr. CORLETT (Will). He said nine or ten thousand cubic feet.

Mr. KERRICK (McLean). Isn't this what he said? Mr. Shaw asked him, "Are you interested in increasing the flow from Lake Michigan to Lockport through the Sanitary District Canal?" He answered, "We are interested in a larger flow than the plan authorizes, but as a matter of fact there is about 15,000 feet coming down there now, but only 4,100 feet officially. We would be quite satisfied with 10,600 feet.

Mr. CORLETT (Will). That is 600 feet a minute. That is from the Sanitary District to the Desplaines river.

Mr. KERRICK (McLean). Do you remember Mr. Bennett saying, in answer to a question by Mr. Revell, the question being, "What is your object at this time in wanting to continue the work of dam construction?" "Our object is to do something to fix the location finally."

Mr. CORLETT (Will). I don't remember that particular question and answer but I was here when Mr. Bennett was here.

Mr. KERRICK (McLean). If we are to adopt this section, would not the State of Illinois, if hereafter damage occurs by floods, or from disease engendered by this canal, would not the State of Illinois be put in a position where it would be held responsible as owner, or part owner of this system, and would it not be in a situation such as that if trouble arose that Chicago could say, and be justified in saying, that it is the State's trouble and not theirs? Isn't it a fact, in view of all the light we have on the case, that all this grows out of Chicago's inability to dispose of her sewage, and therefore is seeking to have the State of Illinois go into this to the extent of thirty million dollars?

Mr. CORLETT (Will). I don't think so, and let me ask you why you think so.

Mr. KERRICK (McLean). From developments that have been made it is absolutely absurd to consider this as a waterway.

Mr. CORLETT (Will). I know, but how will this help Chicago?

Mr. KERRICK (McLean). Chicago says that it will take \$150,000,000 to have their sewers connected and locate these septic tanks to take care of their own sewage, and now Chicago is, under a mandate of the Federal Court, compelled to get along with 250,000 cubic feet a minute, and here is Mr. Bennett's statement that with four times that much the condition is such, as developed by the report of their engineers, that if the sludge should get a start out of Peoria lake, it would then go on to the mouth of the Illinois river and contaminate the stream to its mouth.

Mr. CORLETT (Will). But you don't tell me how it will help Chicago.

Mr. KERRICK (McLean). As a permanent sewer.

Mr. CORLETT (Will). They have every right now that they would have then.

Mr. KERRICK (McLean). Yes, they have every right, but they have been limited to an amount of water which will not be sufficient and the Illinois river will be polluted and the people will not stand for it.

Mr. CORLETT (Will). Won't that happen if this ditch is dug or not?

Mr. KERRICK (McLean). No, sir. They will have to take care of their sewage.

Mr. CORLETT (Will). Won't they have to, anyway?

Mr. KERRICK (McLean). Well, they don't seem to have to now. They are still letting it run there, and they have been letting them run twice and three times as much water as the law is allowing them to have, and still they polluted that river down to Peoria, with the eminent danger of polluting everything down to the mouth of the Illinois river.

Mr. SHANAHAN (Cook). Do you know of Chicago asking in any manner that this twenty million or thirty million dollar proposition be put through this Constitutional Convention?

Mr. KERRICK (McLean). I do not.

Mr. SHANAHAN (Cook). Do you know that Chicago at the present time is arranging for a modern up-to-date sewage system irrespective of what may be done here?

Mr. KERRICK (McLean). I am so advised.

Mr. SHANAHAN (Cook). Is it not a fact that Chicago, through its Sanitary District, offered in 1903 and 1905 to build this so-called ditch down to Brandon bridge?

Mr. KERRICK (McLean). They did.

Mr. SHANAHAN (Cook). Is it not a fact that they later offered to build it all the way to LaSalle at their own expense?

Mr. KERRICK (McLean). I have heard that.

Mr. SHANAHAN (Cook). Is it not a fact that a private syndicate, headed by Mr. Morton, offered to pay an enormous sum to the State of Illinois for permission to conduct it as a private enterprise, if they would get a long term lease, and build it from Lockport to LaSalle?

Mr. KERRICK (McLean). I have seen accounts to that effect in the newspapers. Does that have anything to do with taking care of the city?

Mr. CORLETT (Will). I just want to say this, in conclusion. This is purely a business proposition. I sometimes wonder whether I am not a member of an academy of civil engineers. I don't know all about engineering, and I think there are other gentlemen in this body who know probably as little about it as I do, and yet we talk about engineering problems here as if we were all civil engineers. We depend upon experts in everything that we do not know ourselves. If we are sick, we go to a doctor and take his advice. Competent men say that this is a practical proposition. I believe it. We have to act upon the advice of experts in everything, and now we find ourselves having voted twenty millions for the construction of work which will cost much more at this time than it would at the time that the plan in question was provided for, and to put through that plan at the present time an additional ten millions is required. That is the question. Of course, if we are to assume that this Constitutional Convention is composed of the only men in the State of Illinois who are capable of passing upon this question, then there might be some danger of leaving

it to the General Assembly. Here is a plain proposition, and we ought not to do what the people did in 1837, when they started some work, and they did not appropriate sufficient money to complete it, and then lost it all. We ought to have that much confidence in the General Assembly of this State, confidence that it will exercise some judgment, confident that if additional appropriations are needed, and if they are wise, that they will be made, and that, gentlemen of the committee, is my position on this question.

Mr. WILSON (Cook). I think we have killed the fish and done a lot of other damage through the sewers, and inasmuch as it will be figured that Chicago will be perfectly able to handle the sewage question, we might as well dispose of that feature of it. I would like to talk with the delegate from McLean if we had the time. I would like to go into the history of transportation in all of its elements. I would like to recall to him the failures as well as the successes of the railroads in the West. I would like to go into the whole story, but it is too late. It is ten minutes of ten, and I am going to say just a few words.

I believe the State of Illinois has a great responsibility. It is the only State in the West which has the opportunity now to connect the Great Lakes with the Gulf of Mexico at a very small expenditure. It has already provided a part of the expense, and we, this morning, have ratified it. The question in my mind, and I believe it ought to be in the mind of every man in this Convention, is this: Shall the State of Illinois assume the responsibility of stopping this improvement or shall it do its duty and carry on this improvement? I do not care to go any further. I believe that question of responsibility is right up to us now. Which will it be? Shall we stop that improvement for all of the great West? I don't care a hang about Chicago. Chicago is not in my mind at all. Chicago will be able to get along if it does not have this, that or the other thing, but I cannot conceive that the representatives of the State of Illinois, in a Convention of this kind, will shrink from doing the right and correct thing under the circumstances.

Mr. FIFER (McLean). When we adopted the first section, didn't we endorse as far as the people have already authorized us to go?

Mr. WILSON (Cook). Possibly.

Mr. FIFER (McLean). Please let me, by unanimous consent, make a little explanation here. There has been some feeling in regard to the interest that Chicago has in this matter. I think I can tell these gentlemen how possibly that arose. There was some newspaper article in some country newspaper—I cannot tell you the name of the newspaper, but I understand there was such an article—that Chicago would have to abandon the ditch and would have to make by septic tanks provision to take care of its own sewage and make it into fertilizer. The fertilizer could be sold for enough, possibly, to pay the interest on the money, and that Chicago would like for us to complete the ditch and make a deep waterway of it, and we would own one end of it and Chicago the other, but Chicago, if it has its own sewage plant, would not need their end of it and would sell it to the State of Illinois. I think that that is the way that that notion cropped into this discussion and got before this Convention.

As for myself, it went in one ear and out the other. I have never repeated it, although I have heard it since I came here, and I heard it before, that if we finish the other end of it, that it would be only fair for the down State, because it cannot run its boats through the ditch without their consent, and they would sell it for about thirty or forty million dollars. I never entertained that seriously, and I am satisfied that I do not see anything wrong about it in that manner. If we dig that ditch and take charge of it and want to get it to Chicago, we can do it for what it costs to dig.

CHAIRMAN LINDLY. I think if the Governor remembers when he signed that bill, it provided that this drainage canal shall be part of the waterway when the structure is completed.

Mr. MIGHELL (Kane). I rise to call your attention to the difference in responsibility between Section 1 and Section 2. Section 1, as I see it, is a matter which has already been to the people and they have authorized this expenditure of twenty million dollars. We are not responsible for their action, whether it was wise or unwise, but when we come to the second section in this article and add to that ten million dollars more, we then assume the responsibility of saying that this is a good proposition. It is not, as the delegate from Chicago who last spoke said, that it is up to us to say whether or not we will turn down the policy of the State in this matter. It is up to us to determine whether or not this Constitutional Convention will take upon its shoulders a responsibility which is not necessary for us to assume. If there is a shortage in the construction of this work, as there probably will be, that shortage will not occur for ten or fifteen years. You must know that a project of this kind, if started under these unfavorable conditions, will last ten or fifteen years. The legislature can call upon the people for the additional funds, and that is the correct way to raise this additional money which it will be necessary to expend if this project is carried out. It is not for us who came here to write an organic law to authorize an expenditure of fifteen or ten million dollars more in the view that it will be needed to carry out the policy that the State has entered into.

No, gentlemen, do not assume this responsibility. We are going to have trouble enough to get this Constitution across. The other sections of this article, as I glance over it hastily, do not seem to place upon us any responsibility. I think I am willing to vote for the other sections, but not for Section 2, because it is placing us in a position as sponsors for this very questionable project, a project which in my opinion is an unwise project. Do not let us take any more responsibility than we need; we have plenty now.

Mr. SHANAHAN (Cook). I did not intend to take any of your time in making an argument on this proposal, as I have never taken any great interest in this so-called deep waterway proposition, but I have listened here most of the day to an unwarranted attack on the City of Chicago by both of the gentlemen from McLean, who intimated that this was a Chicago proposition, that Chicago indirectly was asking the State of Illinois to pay some of its debts. We in Chicago may not be the best in the world, but we generally pay our debts, and if we assume any obligations, we arrange at some time to meet those obligations, and we may owe money and we may have asked the State of Illinois through the General Assembly to grant us certain power to do certain things, but we always are careful to stipulate that the citizens of the City of Chicago would pay for the improvements that we make or ask for.

Chicago officially is not interested nor is it asking for the passage of this proposal. Chicago, the same as every other part of Illinois, is interested in this improvement as it would be in any great State-wide improvement. If I remember correctly, in 1889, when the so-called Waterway and Drainage Project was presented to the General Assembly and was passed and then submitted to the distinguished gentleman from McLean for his signature, the citizens of Chicago were compelled at that time to not only provide for a certain flow down that channel, but were compelled, through the energy and the tact and the perseverance of the distinguished gentleman from LaSalle now dead, your distinguished friend, Mr. Mayo, who insisted that this should not only be a drainage channel, but that it should be part of a great waterway running from the Lakes to the sea, and that cannot be disputed by either of the gentlemen from McLean. Chicago was compelled to accept that proposition. Chicago desired to build what they now say was a ditch, a small channel, to aid in taking away its sewage, but the people of the valley protested and said there must be constructed a great channel, part of a deep waterway, and Chicago, at its own expense, at an expense of upwards of eighty-six millions of dollars, built that great channel from Bridgeport to Lockport, not a small ditch, not a small channel, but a great channel that would carry

not two or four or five thousand gallons a second, but any amount that was necessary to go down that channel, and in addition they have built two great collateral channels, one to the south and one to the north, to aid in its development, and then they found that in building this great channel there was this great water power that could be developed at Lockport, and they desired to go further down the channel and develop it at Brandon road that they might be allowed to go further down the channel, but the members from the valley, and especially the members from Will county, protested on allowing that to go through unless their communities were protected, and then during the sessions of 1903 and 1905 this agitation continued to allow Chicago, through the Sanitary District Municipal Corporation, to extend this channel.

And who prevented it? Did Chicago? No. Chicago, at its own expense, offered to build this channel down through the City of Joliet, down to Brandon's road, and when the people protested, they offered to build it at their own expense to the City of LaSalle. And who protested and who stopped it? Not the people of Chicago, not the representatives in the General Assembly from the City of Chicago. It was the representatives from down State who said no, if this great waterway is so valuable to the City of Chicago, then it is that much more valuable to the State of Illinois and the State of Illinois will make this improvement and hold forever for the benefit of the people of Illinois this great water project. And then in 1907 the resolution went through the General Assembly for this great amendment that the gentleman from McLean so nicely described a few moments ago. That resolution passed the General Assembly and was submitted to the voters of the State of Illinois and carried by an overwhelming majority, and then the Governor of Illinois started in to make this improvement. An Act was passed by the General Assembly and he and his representatives went to Washington and asked for a permit, and after investigation the War Department refused a permit unless certain changes were made, and it was necessary to await the convening of the next General Assembly, and then those amendments were made to the Act, and they again asked for the permission of the War Department, and the War Department again asked for certain changes, and then there was a change of administration and another Governor came into office, and he, through his engineers, recommended an entirely different plan, and the General Assembly passed the required Act, and he and his assistants went to Washington and asked for the permit. The War Department refused the permit, citing further objections, and for that reason nothing was done. Then there was another change in the administration, and the present Governor made recommendations to the General Assembly and the General Assembly passed certain legislation, as required by the War Department at Washington, and then, after its passage, the Governor and his assistants applied to the department at Washington for that permit, and within the last six months that permit has been granted by the War Department to build this great waterway from Lockport to LaSalle, and plans are now being developed for that improvement.

I say to you gentlemen that it is unfair for these men to get up and say that the City of Chicago is trying to unload a great debt on the State of Illinois and that it cannot take care of its sewage. I want to say to you gentlemen that the City of Chicago, through its sanitary district, is providing for up to date sewage plants, and they will be constructed and in operation within a few years. There is no fear that the court order of Judge Landis is going to be put in operation because the City of Chicago, or the sanitary district for the City of Chicago has provided for its sewage disposal. The Supreme Court of the land can decide that Judge Landis was right, but the Supreme Court of the land will protect the citizens of the City of Chicago and the citizens of the State of Illinois by setting a sufficient time limit before the flow is cut off and until sewage disposal stations are built and in operation.

In justice to the City of Chicago, I deny here and now that the City of Chicago is down here asking that this proposal be passed by the Constitutional Convention in order that it may get away from any debt or the payment of any debt. Chicago, no matter what objections you may raise to it, is always willing to meet its obligations, and the people and the taxpayers of that city, proud of its standing, will tax themselves to the last resort in order that it may meet every obligation that it may incur through itself or any of its officials.

I am not specially interested in Section 2 of the proposal, but I feel like the gentleman from Will, that as the State of Illinois has stepped in and said that it will make this improvement, it will not allow the sanitary district of the City of Chicago to make it, that it will save for all time for the people of the State of Illinois the great revenue that will come from this water power, that, therefore, this section should go through. And I say to you gentlemen that the water power line of the Desplaines River has been held up for twenty years and has gone to waste because public officials of the State of Illinois have failed to take advantage and to pass the necessary legislation for the use of that water power.

Either allow the sanitary district to develop it or the State of Illinois to develop it or provide that legislation may be passed to provide development so that the country and the people may get the benefit of the great water power now going to waste in the valley of the Desplaines.

Mr. KERRICK (McLean). If the Federal Government shall finally succeed in its contention that only 250,000 cubic feet of water can be spared from Lake Michigan, what effect will that have on the value of the water power?

Mr. SHANAHAN (Cook). It may reduce the value of the water power, but I am informed—I am not a civil engineer—that if there is only 250,000 feet allowed to go down that channel that they could get enough water power and energy through to warrant a development even by a private concern if not by a public concern.

Mr. REVELL (Cook). That's right, too.

Mr. KERRICK (McLean). If Chicago is not wanting this, from what source does this request come?

Mr. SHANAHAN (Cook). Ask the gentleman who presides. Ask the gentleman who was in the General Assembly in 1903 and 1905 and 1907 and advocated this deep waterway project. He can inform you better than I can who wanted this deep waterway legislation, whether it was the people of the City of Chicago or the people represented down State.

Mr. FIFER (McLean). I can answer his question. This was passed in 1889.

Mr. SHANAHAN (Cook). It was insisted upon by the people from the valley, led by Mr. Mayo, in 1889, when you were Governor of this State.

Mr. FIFER (McLean). Not on your life. It came from Chicago.

Mr. SHANAHAN (Cook). Chicago did not want a deep waterway. Chicago wanted a ditch for its sewage, and Chicago was compelled to say that in building that channel it would build it as part of a deep waterway, and it did so, and the gentleman from Will who has been interested in it for twenty-five or thirty years will bear me out in that assertion.

Mr. FIFER (McLean). You were not before the committee.

Mr. SHANAHAN (Cook). I was down in the legislature before the committee.

Mr. FIFER (McLean). I never saw you, and the only question of deep waterways was voiced by the people of Chicago.

Mr. SCANLAN (LaSalle). I admire and honor the ex-Governor. I consider him a friend and I love him, but on this question it is absolutely necessary that the Governor and I differ. When this legislation started I was but a small boy, and I have no direct knowledge or information on the subject, but I heard many, many times from the lips of the venerable Judge Mayo that this deep waterway was a down State proposition and it was sponsored by the people from down State. The gentleman from McLean, Mr.

Kerrick has just said a few minutes ago, and so did the Governor, that the proposition originated in Chicago. I say now, from the information that I got from the man who made the fight for the down State interests, that that statement is not true, and under the circumstances it cannot be true, because the original proposition was for Chicago to send their sewage down the Illinois valley. That was the primary purpose of the movement. How then could it be possible that the deep waterway project originated in Chicago?

When the down State districts were threatened with the sewage from Chicago, they were aroused up and down the valley and organized and had meetings all along the line. They selected Judge Mayo to lead the movement in my county and he came with his delegation to the capital and put up a fight, and I want to say that that was a long drawn out and thrilling fight, and the down State interests secured what they then thought was a bargain. They were promised that in consideration of the City of Chicago getting this concession on the Illinois River, they would have a deep waterway between Chicago and the Gulf, and that was the promise that was made in the bill that was signed by the honorable ex-Governor, and that promise has never been kept, and I say to you now, coming as I do from the valley, that it is the people from the valley and the down State district who want that promise carried out and completed.

That is the situation in a nutshell. Chicago has its sewage disposal. It comes down the valley. We have not got a deep waterway connection with the City of Chicago. That is what we want and that is what we are asking for.

I want to say in the interest of Chicago that they have carried out to the last letter every promise they made. They completed the sanitary district the requisite number of feet in depth from the City of Chicago to the point it was agreed upon. The people in certain districts down State always opposed the spending of money to build this waterway, and I want to say that from the County of McLean comes most of the opposition, not only to this deep waterway but even to the good roads system. I remember that one of the representatives who sat in this chamber from McLean county fought the road proposition session after session. He campaigned against it. He also fought the deep waterway proposition every session he was here.

While I am glad to listen to the arguments made by the ex-Governor, and while he has gone back and told us the past history of the world and while that was all right and proper, and it entertains us, yet there is great danger of his looking too far behind and not enough to the future. We should not allow ourselves to be led away by him in a movement which might result in obstruction and backwardness in the future. There has been just a little bit too much of that looking backward in this Convention. Remember, gentlemen, if you close the door to the future, you close the door to achievement and to progress. You must prepare for the future and provide for it. Let us keep on our feet and not lose our heads. Let us be guided by the prospects of the future and not by what has gone before.

I say to you again that the people of the valley and down State are asking that you complete the promise made to them when the legislation was passed to which you, Mr. Governor, signed your name. And now the gentleman from Kane says that while it may be all right to give twenty millions, yet we should hesitate about the ten millions additional. We know that twenty millions today will not accomplish what twenty millions would have accomplished ten or twelve years ago. Prices of labor and material have doubled and unless you add to that amount you will not be able to fulfill the promise that has been made to the people. Besides, it is not compulsory to spend this additional ten million. We are only giving the legislature the authority to spend it, if necessary, and I think we are wise and safe in reposing that confidence in the State legislature.

Mr. Kerrick has talked about water power. That is merely incidental to the deep waterway system. In the beginning the plan was to use the Illinois River for the purpose of carrying sewage down the Illinois valley. Then the engineers discovered that water power could be developed, and it was explained that if it was possible to develop water power that the State of Illinois should reap the benefit therefrom. Since Judge Landis' order has been entered, the question arises whether or not there will be sufficient water allowed to be drawn from Lake Michigan to create the volume of power originally contemplated. I am told that for the purposes of the deep waterway, even though it is limited to 250,000 cubic feet, there will be an abundance of water to carry out this deep waterway proposition.

I call upon the down State members of this Convention not to permit themselves to be led away from the promise that was made to the people, and to vote for this section as it stands.

CHAIRMAN LINDLY. I wish to say, in reply to the references of the gentleman from Chicago, that every statement he made regarding the objections made from down State to the Chicago canal is absolutely true, and at that time we thought we were doing the State a favor. His statements are correct. The down State people are responsible for this condition.

Mr. SUTHERLAND (Cook). When this matter first came to the Committee of the Whole from the Committee on Public Works, I called attention to the fact that as the report was drawn it would have permitted the General Assembly to make appropriations out of the general fund for the development of waterways and water power. It seemed to me that that was an undesirable thing to do, and I was one of several speakers who suggested an amendment requiring a referendum on any such additional appropriation other than those made out of water power and out of the proceeds of the bond issues covered by the amendment of 1908, and in the course of the debate and in the confusion of the parliamentary situation which followed the report went back to the committee. The plea was made that it was necessary to have some elasticity, some leeway for appropriation. I considered that that was a reasonable request. I thought a referendum would take care of it, but it appears that owing to the great increase in cost, those who are concerned with the development of this activity and this enterprise feel that there should be some further limit without the necessity of going before the people with a bond issue, and this proposal is now before us. It seems to me there is a great difference between the ability to make an appropriation without limit in any session or any series of sessions and this provision which provides that there shall be a limit up to thirty million dollars instead of twenty millions, as at present. I believe that the section as it is sets forth a principle that we should concur in, and I, for one, shall support it.

Mr. BARR (Will). Mr. Chairman—

CHAIRMAN LINDLY. The hour is late, and it is about to rain, and we are all anxious to go home.

Mr. BARR (Will). I know it is late, and I also appreciate the fact that this is a very important proposition, and therefore I feel justified in asking the indulgence of the committee for a few moments to discuss, from the point of view of a down State person, this proposition that is now before this committee.

As has been suggested by the Governor, we are at the very point of the flow of the sewage that he has so graphically described. In fact, he has described it so graphically that I could almost smell the odor that we used to smell before the sanitary district was constructed. The fact of the matter is that those of us who live in Joliet, just below the City of Chicago, have been enjoying the perfumes from Chicago for a great many years, and, as the Governor has said, we seem to grow fat under that influence. The fact of the matter is that the condition of the atmosphere in and about Joliet and close to Chicago is at the present time very much improved and we are not suffering from the odors that we used to enjoy before the canal was constructed. However, we still have some of it. It is something

like the fellow who was arrested and put in jail. When he told his lawyer the charge against him, his lawyer said, "They cannot put you in jail for that," and he said, "Maybe that's true, but I'm in jail just the same." So whether it was a good move or a bad move to construct the sanitary district and turn the sewage down the river in larger quantities than used to come down the old Illinois and Michigan canal, we are there and have it. There is a flow of water which may be limited to 250,000 cubic feet per minute and perhaps that will not be sufficient to take care of that sewage, but they might want to jam it down that canal in case they do not build the modern methods of taking care of sewage which I am advised they are in the process of constructing. But I am advised that 250,000 feet is a sufficient flow to take care of a deep waterway project.

We are not here tonight, gentlemen, considering the disposition of Chicago's sewage. We expect that Chicago is going to take care of that proposition herself. We are not here disturbed whether Judge Landis' injunction shall or shall not continue in force. What is the use of talking about the construction of a sewage system in Chicago and whether the Chicago fellows want this project completed? Suppose they do want it completed? If they are forward-seeing men, and the development of the City of Chicago, with the wonderful strides that it has taken in the last twenty years, to be encouraged, the construction and development of this great waterway will be a good thing, not only for Chicago but for Joliet and LaSalle and Peoria and the rest of the State.

Let us confine ourselves to the question. Let us act as business men going at a business project. We may be down here as statesmen once in a while, but it seems to me that we will accomplish more if we go at this in a straightforward businesslike way. Just suppose that we are a board of directors of a private corporation, and that we are discussing the project of building an improvement to that corporation. Do you suppose we would call in orators to make Fourth of July orations and hold field day exercises and talk about the development of the whole world and lecture on history and a whole lot of other things that have nothing to do with the business in hand? We would not. And so it seems to me that tonight we ought to consider this proposal as a business proposition and forget for the time being the entertainment side of it, all of which is very pleasant, but has not a thing to do with this proposition.

Mr. FIFER (McLean). You say you are not concerned with the decision of Judge Landis?

Mr. BARR (Will). I said the waterway project could be carried on successfully even if that opinion would be sustained.

Mr. FIFER (McLean). We are entitled under the law that I signed to 600,000 gallons. We only received 450,000 and now it is reduced to 250,000. What assurance have you, when Chicago begins to take care of its own sewage, that the Government of the United States will not cut it still lower?

Mr. BARR (Will). The assurance that the Government of the United States will not disregard the welfare of the people of the State of Illinois.

Mr. FIFER (McLean). But it has disregarded it. That is business. That is not Fourth of July oratory.

CHAIRMAN LINDLY. I think the gentleman from McLean has asked that question a dozen times tonight.

Mr. BARR (Will). We have the assurance that the United States Government will never do a single act that will deprive the people of the State of Illinois of the flow of water which they have the right to receive in order to properly maintain that project.

We are not justified at this time in saying that we have no right to go on with this proposition. We are here on serious business. We are here to solve the problems that come into our hands, and if we are capable of representing the people who sent us here we will stand up like men and solve them. What did the people of the State of Illinois do when this project came up? They voted this twenty million dollars unanimously. If I do not

misunderstand the sense and the judgment of the people of the State of Illinois, they would say to us unanimously to write into this constitution the provision that will take care of the completion of this project, and if by virtue of change of conditions it becomes necessary to appropriate more money for its completion, the people of this State of Illinois will stand behind us in that appropriation. This is a business proposition and it must be completed. This deep waterway project is destined to become one of the greatest factors in the development of the welfare of this State, and we should not refuse to do that which will enable the government of this State to carry out the project which the people have authorized it to carry out.

Mr. GALE (Knox). I move that the committee do now rise and report progress.

(Motion prevailed.)

(President Woodward assumed the chair.)

Mr. LINDLY (Bond). The Committee on Waterways reports progress and begs leave to sit again.

(Report adopted.)

Mr. GALE (Knox). The Committee on Revenue and Finances submits a partial report.

THE PRESIDENT. Under the rules the report will be printed and lie on the table.

Mr. DEYOUNG (Cook). The Committee on Judicial Department submits a partial report.

THE PRESIDENT. The report will be printed.

Mr. GREEN. I move that the Convention do now adjourn to Tuesday, July 6th, at 10 o'clock a. m.

(Motion prevailed.)

Convention adjourned to Tuesday, July 6, 1920, at 10:00 o'clock a. m.

TUESDAY, JULY 6, 1920.**10:00 o'Clock A. M.**

Convention convened pursuant to adjournment.

The President in the chair.

Prayer by the Chaplain.

THE PRESIDENT. The Journal of Wednesday, June 30th, 1920, has been placed on the delegates' desks and is now subject to correction. There being no corrections proposed, the Journal of Wednesday, June 30th, will stand approved, and it is so ordered.

Whereupon the Convention proceeded upon the order of special orders of the day, reports of standing committees, reports of select committees, introduction, first and second reading of proposals, motions and resolutions, unfinished business, general orders of the day.

Mr. KERRICK (McLean). I have a minority report of the Committee on Revenue and Taxation.

(Minority report filed.)

THE PRESIDENT. The Convention will resolve itself into Committee of the Whole for the consideration of Proposal No. 377, and I ask Delegate Lindly to take the chair.

(Chairman Lindly presiding.)

Whereupon the Convention resolved itself into Committee of the Whole to consider Proposal No. 377.

CHAIRMAN LINDLY. The secretary will read the minutes of the last hearing.

(Minutes read and approved.)

CHAIRMAN LINDLY. The question before the committee is the consideration of Section 2. Any further remarks?

Mr. HULL (Cook). This is the section that provides that the General Assembly may authorize the issue of ten million dollars worth of bonds in addition to the twenty million dollars worth of bonds authorized by the present law.

I understand that this suggestion of an authorization of additional bonded indebtedness arises out of the fact that the cost of work of this kind is much larger now than it was at the time this present Constitutional provision was adopted.

I have been of two minds with reference to this waterway proposal. I have been skeptical of the value of the waterway, but I have been strongly of the opinion that the waterway was a resource which should be conserved for the State, and I can verify what was said by Mr. Shanahan in the last session of the Committee of the Whole, in considering this proposal; that is, when the sanitary district was here in 1907 asking for authority to continue its channel down to Brandon Road, the opinion prevailed that the value of the water power belonged to the State, and the improvement should be made by the State.

I am inclined to go along with this proposal, but I think it rather a doubtful matter whether this proposal—I am referring particularly to Section 2—should be incorporated in the Constitution as a whole, when it is submitted to the voters of the State; whether this Convention should be converted into a waterway convention instead of a Constitutional Convention. Therefore, while inclined to go along with Section 2 of this proposal because I believe it may be a handicap when incorporated in the Constitution, when submitted, that is as to the adoption of the Constitution, I move you as a substitute for the pending question that this be

adopted, but that it be submitted to the voters alone, separate from the Constitution as a whole.

Mr. JARMAN (Schuyler). The second section alone?

Mr. HULL (Cook). Yes, the second section alone. As I understand it, the rest of the articles of the section on revaluation provide for hearings to be had every twenty years instead of ten years.

CHAIRMAN LINDLY. The question before the house is on the motion of the gentleman from Cook to submit Section 2 alone, if adopted, as a separate proposition, instead of being incorporated in the Constitution as a whole.

Mr. FIFER (McLean). I concur with the senator from Chicago, and say if this is submitted so that the people will either have to vote for it or against the entire Constitution, in my judgment it will endanger the adoption of the Constitution to a considerable extent.

Without exception, our people in Central Illinois are opposed to this provision, and my activity in this matter grows out of the fact that my people over and over again have urged me to oppose anything looking to the extension of this power.

We can all have our opinions here, but we have got to look, and I know of no one thing that would be in the Constitution that would possibly endanger it so much or lose so many votes as a provision to add to the twenty million dollars the ten million dollars proposed in this section.

By the kind indulgence of the Chair, I would like to have a word in correction of what I have said on last Thursday evening in regard to this proposition. I have not read the bill signed in 1889 from that day to this. I went to the member from Joliet and asked him for the facts, so that I could have them quickly in my mind, and he gave the facts correctly, and I aimed to express them in that little speech I made, just as he gave them to me. I said, that is what my friend here said, perhaps I got a little confused in my expression; of course the bill would not provide for a city of a million inhabitants the same amount it would for three million. It would be progressive. I understood that correctly. We were to start with three hundred million gallons each minute, and to increase the volume, to six hundred million, that is what I intended to say in my address of Thursday night. However, in the excitement of the moment I may not have made myself understood, and I now wish to make that correction, if any correction is needed.

Mr. REVELL (Cook). Mr. Chairman and gentlemen of the Convention: It has been my misfortune that the Governor and myself had any disagreement upon this matter, but we are still in disagreement, more positively than ever before, because of the statement he has just made.

He states that it would endanger the constitutional ratification of the Constitution if the waterway was protected, if it were protected in a way that would make it certain that the people of Illinois were going ahead with the project.

I believe, while it is not the most important thing that we have to consider in this Convention, that the people of this State are, contrary to what he says, enthusiastically in favor of the waterway whenever it is brought to their attention. It may be true, at some given moment, or for a short period of years, that this question gets away from them, but I have not heard a word of protest from anyone in this Convention—and I may be corrected if I am wrong—coming from any delegate who lives along the waterways or any of the several rivers which the waterways relate themselves to.

But we find from the county of McLean and from the City of Bloomington, situated quite a distance from these waterways, practically the only opposition that has been heard. We cannot understand this, unless it is barely possible these gentlemen, having in their own way opposed this great, important measure in former years, are like very many successful men who have had their victories and defeats, taking their victories as a matter of course, but instead of gleaning from their defeats the wisdom

thereof and forgetting them, remember them only for the purpose of opposing their opponents on anything that comes up in connection with them as long as they live. Now, these young old men see terrific obstacles. They see great walls opposing the thought beyond, over which the somewhat younger men of the present period will find no great problems.

I say that because if for twenty or thirty million dollars this Convention can in any way safeguard that improvement, to permit Illinois to go along with the states which are improving in exactly the same way, we make a great mistake if we do not decide it right here.

I listened to the arguments of my distinguished friend from McLean last Thursday evening, and I prepared an argument which was equally as lengthy as the one delivered here the other day, but realizing the time of the year, realizing that we are nearly at the end of our work, so far as this continued session is concerned, I, in a spirit of kindness to you gentlemen, felt that I should leave that argument at home. It is not my desire to take up much more time, two or three minutes only of the Convention, in order to illuminate some of the obstacles presented by the gentleman from McLean the other evening.

There seems to be some doubt as to the quantity of water which, under Judge Landis' decision, may pass through the several canals and rivers. It might be interesting to know the actual volume of water, if contained, that would go through in twenty-four hours, on the basis of 250,000 cubic feet of water a minute. This would make a body of water 270 miles long, 30 feet wide and 9 feet deep.

It is fair to say that this does not represent depth, width or length of commerce flowing down through the valley. It would provide adequate water for all draft boats requiring 9 feet depth. The eminent consulting engineer and authority on waterways, Mr. Baker, of whom it is fair to say, he is not enthusiastic on inland canals, still admits that there is an advantage in all shallow built craft for inland waterways, as compared with deep draft vessels. This comparison affects the cost of making channels deeper. He says that as between the matter of going to the excessive cost made necessary for deep draft vessels and the comparative cost in connection with depth of channels of the more shallow craft, the comparison is all in favor of the shallow depth.

In deep draft vessels, the cargo has to be assorted and placed in a very careful matter, the heavier goods going to the bottom, the lighter goods on top, while in the shallow draft vessels the cargo can be placed quickly in almost any part of the hold. Of course, cheapness in construction is also a matter which calls for favorable comparison with the deep boats. One hundred shallow draft boats can be built for the cost of one large deep draft sea-going ship.

Now, in regard to sewage, which is another question that has created considerable discussion. Much has been said on this point. However, the discussion is unfair unless it is all taken under consideration, along with the fact that very many millions of dollars are now being spent, and contracts shortly to be let, looking toward the handling and reduction of sewage and refuse in and about the City of Chicago.

The drainage canal trustees, with the packing house interests, are now or shortly will spend between seven and ten million dollars for the most scientific reduction plants which experience may have developed in all parts of the world.

Several parts of Cook county have plants almost completed, looking toward the same purpose I have just mentioned. Some of these have been held up by the high cost of labor, one of the economic consequences of the war.

In a few years you will be able to see a marvelous difference in the degree of solids which pass through the canal.

Then it is very likely that the Landis decision will not stand. As has been well stated by one speaker, it will not if the people of the Missis-

issippi valley need more water. The Government is not going back on the greatest producing valley in the United States.

And how can we know this in a more positive way? Because it is a comparatively simple thing to do, once it is determined to be necessary to further safeguard the lake levels and the waterways. It will be done by destroying obstacles which exist at present, and widening dams in other portions of the many rivers, etc., which flow into the lakes. Some of these possibilities are located on or near the shores of the Great Lakes. Physically this latter is not even regarded as a problem.

Mr. Chairman, I certainly hope that this amendment will not pass, and that we go through with the report of the committee that has given this matter consideration over the months, and I believe that it is for the best interests of our State.

Mr. JARMAN (Schuyler). Will the Secretary read the amendment?

CHAIRMAN LINDLY. Mr. Hull moves as a substitute for the section under consideration that the section be adopted with the recommendation to the Convention that this section be submitted separately to the people.

Mr. JARMAN (Schuyler). Is that in order as a substitute? It moves simply the adoption of the section with a proviso. There is a motion pending to adopt the section.

CHAIRMAN LINDLY. This motion is to adopt the section with the provision of a separate submission, which I take it would be a substitute.

Mr. JARMAN (Schuyler). Is it in the nature of an amendment, rather than a substitute, adding the proviso as an amendment?

CHAIRMAN LINDLY. It is in the nature of an amendment, but could be called a substitute.

Mr. JARMAN (Schuyler). I want to get it straight, because I want to introduce a complete substitute for this section and move its adoption.

CHAIRMAN LINDLY. Then under the rules here, two amendments can be offered and the chair will consider both substitutes as amendments.

Mr. JARMAN (Schuyler). I offer the following as a substitute for this section and move its adoption:

"The General Assembly shall never make either additional appropriations or authorize bonds to be issued and sold for the construction, maintenance, operation, extension, enlargement or equipment of Illinois waterway or its appurtenances in addition to the bonds heretofore authorized, except as otherwise provided in Section 3 of this article, unless the law making such appropriation or authorizing such bonds shall first be submitted to the people of the State at a general election and shall have been approved by a majority of all of the votes polled at such election."

It will be noted the difference between this substitute and the original Section 2 is submitting it to the vote of the people, submitting any bond issue or appropriation that may be made for this waterway.

The original Section 2 provides that any appropriation or bond issue above the ten million dollars shall be submitted to the people. The substitute here provides that any appropriation or any bond issue for a waterway shall be submitted to the vote of the people. It has been stated here that this Section 2 is simply for the purpose of constructing this waterway, on account of the increased cost of labor and so forth.

I am a member of this Committee on Public Works and have tried in good faith, very hard, to agree with this report, but as I have expressed to the committee, I am unable to do so.

This Section 2 provides not only for the construction and equipment of waterways, but for other things. You will notice the section for the twenty million dollar bond issue, and the Constitution as it is now provides for the construction, maintenance and equipment. Section 2 provides not only for construction, maintenance and equipment, but for operation, extensions, enlargements and so forth. Under this Section 2 and under the bond issue of the ten million dollars, this canal can be extended to any extent, not only to the extent between Lockport and Utica, to be built and constructed, but to any extent it can be constructed and to any extent it can

be enlarged, and the money can be used for the operation of this waterway beyond the twenty-million dollar bond issue.

To my mind it is very doubtful whether or not this waterway will ever be a success. I waive that, however, so far as my position goes, because I fear that I might be influenced in reaching that conclusion by selfish feelings with reference to the localities along the Illinois River. The members of this Convention may not realize, but millions and millions of dollars worth of land and crops have been destroyed along the Illinois River by reason of this canal as it is now. The east side of my county is bounded by the Illinois River, and there are millions of dollars worth of land and crops along that boundary line that have been destroyed and made worthless by this water coming down the Illinois River, and there is no means of recourse for those people. So, feeling that way, I doubt whether I could with an unprejudiced mind reach a conclusion as to whether or not this waterway would be a success.

Twelve years ago this twenty million dollar bond issue was authorized. Twelve years have passed and nothing has been done. Why hasn't it been done? Those who are acquainted with the situation can answer this. But this fact is true, the legislature thought it necessary and the Constitution required that the twenty million dollars be submitted to the vote of the people. I insist, from my standpoint in any event, that any subsequent bond issue shall also be submitted to the people.

Why should there be an exception to this? You have passed the rule of the State's credit in this Constitution, and you required before any money could be expended for that purpose that it should be submitted to the people. You required under the Constitution that the State could not go into debt over one million dollars without the vote of the people. Why should an exception be made in this section? It seems to me it is only fair to the people to present these matters to them.

If they adopt it, nobody can have anything to say. It is their business, but I do submit that this Convention as a Constitutional Convention should not propose to voluntarily do this, without any discussion of the matter to any extent as to the facts, and we have not had any discussion as to the real facts in the case. It has only been speculation. What is the government going to do with this waterway in the future? Why, the Illinois River is no good unless the government takes it, as I know the Illinois River.

Mr. Bennett said from the desk here the other day that twenty million dollars would build it now. He said from the desk that they probably would not need over ten million of the twenty million dollars. Then why not let the State present to the people the right figures as to what it will cost and then let the people vote as to whether they want it or not?

If you adopt the substitute of the Senator from Cook, Mr. Hull, you are in this position, and it is not a good position to be in,—if you adopt this section as reported, and submit it separately. When this Constitution is adopted, suppose it is voted down, suppose the people vote against it, where are you? You will leave the whole matter open and the legislature can appropriate any money it pleases for it. Absolutely, because there is no limitation. If they vote for it, of course it limits it to the ten million dollars, but the proponents of this proposition are safe in either event. Heads I win, tails you lose, that is what it amounts to, because if you voted it down the legislature as complete authority without any limitation can appropriate any money; ten or twenty million dollars can be raised by taxation. So I think the amendment of Senator Hull is inapt and unfortunate, because instead of submitting it to the people, it simply opens up the gate for the flood to come in as the legislature feels. So I submit the amendment in all fairness presented by myself should be adopted.

Mr. SHANAHAN (Cook). Mr. Jarman, would you prevent the General Assembly from making appropriation for the operation and maintenance and equipment?

Mr. JARMAN (Schuyler). I would by bond issue.

Mr. SHANAHAN (Cook). I am not talking about a bond issue.

Mr. JARMAN (Schuyler). This is the second section.

Mr. SHANAHAN (Cook). I asked you if you would object to the General Assembly having authority to make an appropriation for the operation, maintenance or equipment of the waterway.

Mr. JARMAN (Schuyler). Yes, I would.

Mr. FIFER (McLean). Except out of the proceeds.

Mr. JARMAN (Schuyler). Out of the proceeds as provided in Section 1.

Mr. FIFER (McLean). Just as it is now in the Constitution.

Mr. SHANAHAN (Cook). That is to say, if the proceeds were one hundred thousand dollars a year and it was necessary to have one hundred and fifty thousand dollars to maintain the canal, you would want the fifty thousand dollars appropriation submitted to the vote of the people each time?

Mr. JARMAN (Schuyler). Yes. The old Constitution provides that no appropriation shall be made without it being submitted.

Mr. SHANAHAN (Cook). That is the old waterway?

Mr. JARMAN (Schuyler). I take it it is the same proposition.

Mr. SHANAHAN (Cook). Then I take it you are against the deep waterway?

Mr. JARMAN (Schuyler). Yes, I have been against it all of the time, and I so told the committee.

Mr. CORLETT (Will). It has been stated that this proposition has not been discussed. It seems to me it has been pretty fully discussed.

When this report was first before the committee, we devoted an entire day to expressing the fear that some private individual or corporation would grab this valuable property, as it was then argued before this committee, and the next day we put in the entire day apparently expressing regret that it had not been done before.

Now, we have devoted four or five days to a discussion of the various questions involved in the report of the committee dealing with this subject. We go back to 1908, when the people of Illinois voted for this improvement and authorized the issue of bonds to the amount of twenty million dollars to complete it. The gentleman from Schuyler asks why has there been nothing done. It is a matter of common information that the plans for this improvement have not until recently been approved by the War Department, and the last act of the General Assembly dealing with this improvement presents a plan in harmony with the general plan of the Federal Government for the inland waterways of this State.

Now, it is a matter of common knowledge that twenty million dollars will not, because of the increase in the cost of everything, accomplish any more than thirty million dollars will at the present time.

It is said that if this is incorporated in the Constitution it will hurt the Constitution. I presume that that same argument can be made about every other proposition that may be incorporated in the Constitution. Everything you write in your Constitution will not only hurt it in some places, but it may help it in other places. We have heard this simple proposition whether we are going to give the people of Illinois credit for knowing enough to know that twenty million dollars of money will not accomplish now what twenty million dollars would accomplish twelve years ago, or whether on the other hand we are going to have the approval of the people if we provide for the expenditure of twenty million dollars of money and make no provision whatever for the completion of the work, which it is conceded quite generally cannot be done for the same amount of money that it could be done for in the year 1908 and the years following. What the gentleman from Schuyler says, that Mr. Bennett, the head of the department, said that this work could be done for the original twenty million dollars authorized by the amendment of 1908. Possibly the gentleman is correct in his recollection of what Mr. Bennett said, but my memory is that Mr. Bennett said the department hoped to complete this work for that amount, yet it was possible that it could not be completed for this amount, and therefore he hoped that the Constitutional Convention would

not tie the hands of the General Assembly so that if additional appropriations were needed, they could not be made.

Now, we are not appropriating ten million dollars, we are only authorizing appropriations to that extent if necessary to make available the work started by the twenty million dollars heretofore authorized. This General Assembly is trustworthy. I think at the last session they appropriated almost, if not quite, sixty million dollars. Am I correct?

The authorization here asked by the friends of the waterway, who are bitterly opposed to defeating the purpose of the amendment of 1908, in one way or another, is about one-sixth of the appropriation of the last General Assembly. This twenty million dollars authorized by the amendment of 1908 has not yet been expended, and yet the General Assembly has made appropriations since then aggregating probably two hundred and fifty or three hundred million dollars. It looks to me, gentlemen, as though the authority to appropriate additional money not exceeding ten million dollars is, in view of the situation, a very small matter. Are we to assume now that the people want twenty million dollars expended and the hands of the General Assembly are tied, so that if one million or two million or an amount not exceeding ten million dollars is necessary to complete the work, that the General Assembly cannot make such appropriations?

It seems to me if we are going to develop this waterway, as it has been and is as far as the policy of the people of this State is concerned for the last one hundred years, that we ought not to tie the hands of the General Assembly in the manner proposed. And all of these proposals to tie the hands of the General Assembly come from those who admit that they have no confidence in the waterway and they are opposed to it.

The arguments made against this waterway were made one hundred years ago against the Illinois-Michigan canal, and they have been repeated and repeated ever since. The gentlemen who have no confidence in the proposition, or who wish to defeat the purpose of the amendment of the Constitution in 1908, are the gentlemen who wish to tie the hands of the General Assembly, so that if the twenty million dollars will not complete the work, there will be a waste of that amount of money, or a large part of it. It looks to me as though we are talking about a matter the importance of which we exaggerate, when you argue that the General Assembly will not be allowed to exercise business sense and judgment in the matter of completing the work proposed by this amendment of 1908. When we think of the General Assembly meeting here every two years and appropriating money aggregating almost sixty million dollars, if the General Assembly may be trusted to appropriate for every other purpose in the State of Illinois within the scope and purposes of the State, can anybody give any reason why the General Assembly should not be entrusted to exercise its business sense and judgment regarding additional appropriations if needed to complete the work authorized by the people, directed by the people, and for which appropriations to the extent of twenty million dollars are authorized?

I am opposed to the amendment and to the substitute, and I hope this may go through as the committee has reported it.

Mr. RINAKER (Macoupin). Why should this entire clause covered by the substitute, the one you speak of leaving the legislature to exercise its business sense and judgment and discretion in that matter, why should that be extended to include the question of extension or enlargements of the waterways without that question being submitted to the people?

Mr. CORLETT (Will). If it becomes necessary to enlarge it, why I see no reason why it should not be enlarged, but as far as the extension and enlargement is concerned, I understand that that is a part of the thought that is in the mind of the director of public works, that at Ashland avenue, where the old Illinois-Michigan canal intersects the south branch of the Chicago River, if approved by the sanitary district, they expect to run south there in the old canal and enlarge the old canal for a

distance of maybe three miles, with a harbor or terminals in order to connect with the railroads that are running across the property.

Mr. RINAKER (Macoupin). That would not be the enlargement of the waterway, but would be the enlargement of that canal.

Mr. CORLETT (Will). I would say that the Illinois waterway would be a waterway running from Lake Michigan, under the Act creating the sanitary district, clear down the Illinois River as far as that goes.

Mr. RINAKER (Macoupin). My question in another form is, why is it, when the people voted on it it was to be used for the construction, maintenance and equipment of a waterway, and this additional ten million dollars is not restricted to that, but covers the construction, maintenance, operation, extension and enlargement?

Mr. CORLETT (Will). The explanation I have given you in regard to terminals is the only explanation I have of that, unless I might add if down the river beyond the point where the waterway is provided for, they might want to move obstructions or something in order to permit navigation.

Mr. RINAKER (Macoupin). That would not be any enlargement or extension of the waterway, but would be a work in the Illinois River which would not be authorized under this law.

Mr. CORLETT (Will). I think that would be an extension of the waterway; that would be my construction of it. I might be wrong; I did not draw this bill. I give you the explanation made by the committee.

Mr. FIFER (McLean). You stated a minute ago you could not see why the General Assembly should not be free to appropriate all of the money necessary.

Mr. CORLETT (Will). I did not make that statement. I said I did not see why they should not be allowed to appropriate all money necessary up to ten million dollars, as provided by this section. That is what I said.

Mr. FIFER (McLean). I understood you to concede it that the General Assembly for general purposes appropriate about sixty million dollars every General Assembly.

Mr. CORLETT (Will). I said that, and argued from that that if they were authorized to appropriate sixty million dollars at every regular session, it seemed to me they might be entrusted with passing on this question of additional appropriations not exceeding ten million dollars.

Mr. FIFER (McLean). Under the old Constitution, you are aware, no doubt, the legislature would appropriate just as much money as they pleased for internal improvements.

Mr. CORLETT (Will). What do you mean—the Constitution of 1818?

Mr. FIFER (McLean). For improving rivers, roads or anything that they thought needed it.

Mr. CORLETT (Will). Yes, I understand that to be so in the Constitution of 1818.

Mr. FIFER (McLean). And 1848. Now, as a matter of fact, didn't they under that provision practically bankrupt the State in the legislature?

Mr. CORLETT (Will). In 1837 they appropriated about ten million dollars, which is about half enough to complete the proposition, and if they had more they would have had something that would have been of more use to the State, instead of railroad tracks, cuts and banks.

Mr. FIFER (McLean). As a matter of fact, it is so, the State was bankrupt and the Constitution of 1870 closed that gap and said that they should not do it, and that made necessary a Constitutional amendment in 1908 to allow the legislature in that specific instance to break through the Constitution of 1870 and appropriate twenty million dollars of bonds. Isn't that true?

Mr. CORLETT (Will). The amendment to the Constitution authorizes an appropriation of twenty million dollars for this purpose.

Mr. FIFER (McLean). Are you saying that if they ought to be entrusted to appropriate sixty million dollars they ought to be permitted to appropriate ten million dollars more for this project?

Mr. CORLETT (Will). That is it.

Mr. FIFER (McLean). Without any vote of the people?

Mr. CORLETT (Will). Yes, that is my proposition.

Mr. FIFER (McLean). What objection have you to submitting to a vote of the people this ten million dollars, the extra ten million dollars?

Mr. CORLETT (Will). I have the same objection that probably you have to any measure that you think ought to be written into the Constitution. It means the people have got to go out and attract the attention of the voters to it and make the campaign for it.

Mr. FIFER (McLean). It would take possibly ten years to spend the twenty million dollars already authorized, and we would give them ample time in any year in which the General Assembly wished to submit to the people the proposition of appropriating or spending the ten million dollars for.

Mr. CORLETT (Will). It would double the work.

Mr. FIFER (McLean). That is not the point. It would take at least ten years to spend the twenty million dollars already in sight.

Mr. CORLETT (Will). I don't know; I am not a civil engineer.

Mr. FIFER (McLean). Well, they would not spend it in one year or two years or five years.

Mr. CORLETT (Will). They have not spent any of it yet. Yet it is a great fear here that a proposition which has never cost them any money will cost them a great deal of money, and I cannot understand it myself.

Mr. WILSON (Cook). Mr. Chairman and gentlemen, I believe sometimes it is overlooked that this is a matter of public policy. I wish General Davis was here so that he might make a motion to close debate on this, but I believe that we do not understand the public policy behind it, and I would like to call attention of the Convention to the situation of the railroads in America.

Governor Fifer stated with a great deal of truth that in the last fifty years the railroads have superseded the waterways, but now we hardly know what is going to happen. The first four months of this year the operating revenues of the railroads will barely pay the expenses, and if it had not been for the fifty million dollars back railway pay, the railroads would not have been saved from a deficit for the taxing revenues.

Suppose the Railroad Wage Board, as it is now believed it will do, will grant an increase of twenty-two per cent in railroad wages. That will mean the operation of the railroads for 1920 will show a deficit of nearly one billion, five hundred and seventy-one million dollars. On the same basis for 1921 they will show a deficit of one billion, seven hundred and twenty-eight million dollars. The reason I am interested in this particular project, in which personally I have as much reason to be interested as I would in an expired insurance policy, is that we cannot look forward now with the same degree of assurance to what may become of the American railroads as we could in the past.

There is not enough private capital today available to rehabilitate the railroads, and if this labor bill passes the only way that labor can be paid is from increases in income taxes. The government is behind three million dollars in general expenses. How long can this government go along with the excess profit and the graduated income taxes? We are all up against the proposition where every bank that is connected with the Federal Reserve system is saying to its customers, who are manufacturers, "Slow down," and saying to its jobbers, "Slow down; we haven't the money to go on supplying you credit for the expansion of your business." The surplus funds have been taken in cash by the government in the payment of income taxes, and as a result the surplus funds of the country are largely exhausted.

In the section that I am familiar with in New England, the jitney busses and auto trucks between two of the populous towns of the section have so depleted the railroad traffic that there are now but two passenger trains passing through those towns a day where they formerly had eight.

The roads are very good and it is very convenient for the jitney busses and the auto trucks to do hauling between those towns, and also in that section.

I have had this thought: Years ago, nearly twenty-four years ago, in 1896, the Union Pacific railroad was sold at auction by the United States government. Mr. Harriman bought it. The story is—I think it is true—that he went to the Northwestern railroad and offered them an option of thirty-three dollars a share. They kept it for three months, and concluded it would not pay to buy it, so Mr. Harriman, with his backers, was forced to go through with the purchase of the Union Pacific railroad. They invested two hundred million dollars, and if you recall the hard times prior to 1896 and what followed thereafter, you will also recall the great development of the American railroads in the West since that time.

Now, what has happened since? The world has been very nearly destroyed, as far as the capital is concerned. This country has loaned to the Allies more money than any other countries in the world possessed. That shows the enormous extent to which the basic principle of the credit of the Government has been extended.

I will not discuss the question of waterways, because I really don't know anything about it, but I take this position, I would not buy any stock in any railroad today, except possibly in the Illinois Central Railroad, and possibly one or two others, which would be competing with this waterway, and I could not be induced to do so. Underwriting projects and notes put out up to the present time, to rehabilitate great railroads like the Pennsylvania and the New York Central, are lying in the hands of the underwriters today. One preferred stock and bond issue, paying eight per cent, is going begging in Chicago for the want of investors. First bonds of the Pennsylvania Railroad Company, costing eight per cent to market, six per cent interest and two per cent commission, are going about on the market not being taken advantage of. I ask you who is going to tell whether this waterway is going to be valuable or not?

I have said to one or two friends in the Convention that during the eighties I happened to be a member of a jobbing house in Chicago, and among other things we handled Mason fruit jars and such articles. Two years in succession we were able to buy them in Lockport, New York, and they were loaded on a barge in the canal, and then reloaded in a steamer in Buffalo, and landed at our warehouse at a lower cost than we could buy them from Ball Brothers, of Muncie, Indiana, by freight. That was a condition where the waterway was not only doing a good business, but doing a cheap business. What right have we to say that the deep waterway between the Gulf of Mexico and the Great Lakes is disappearing? What right have we to say, in face of a vote of the majority of the people of this State that they thought it was in their interest, we will not comply with it?

It is difficult, mighty difficult, for me to talk about this question, but I do believe it is one of grave public policy. We might be very much ashamed of ourselves if these railroads would go to pieces. They have gone to pieces before. Twice in my lifetime I have seen stockholders of two great railroads—I won't mention their names, you all know what they are, one of the most extensive railroads in the country, as far as length in mileage is concerned—lose their fortunes through depression of business and a recurrence of high prices.

The economic situation in this country is very much more serious than we know anything about. When it is going to take years to rebuild and revive the railroads of this country, when there is not enough private capital in this country to do it, and the resources have to be raised from taxation—and that is the leading question according to the best economic minds in the country—why should anyone say that we are not conferring a blessing on the State and Nation if we permit this waterway to be made in volume and amount as outlined? It is simple; the Department of Public Works asks for ten millions to do it.

Now, really, gentlemen, I don't care whether it goes to a vote of the people or not. I do have this thought, if any of us were interested in a great public enterprise, of this character or any other character, and had a certain amount of money which we felt at one time would complete that structure, and some untoward event occurred which put us in doubt about our ever being able to get any more money—and there are lots of people that cannot get it now for any enterprise without a high rate—I think as an individual, as director of the Department of Public Works I would prefer to wait until I had the money in hand. That is about all there is to it. I hope the amendment will be voted down. As a matter of public policy I think it is of great moment, and I would like to see the committee's report voted upon on that proposition.

Mr. MILLER (Cook). I have not taken any part in this discussion until the last gentleman spoke. I had wondered why nothing was said regarding the present need of waterway transportation; the present need as compared with the past, the vital need at the present time. I would just like to add a few words to what has been said by the gentleman from Cook along that line, just to remind you of a few things of recent history.

Of course we all know that, until ten years ago, America had built up the greatest and most efficient railroad system in the world. She had two hundred and fifty thousand miles of railroad, practically the same as the rest of the world together, outside of the United States, and more than all of Europe. The freight rates in this country were cheaper than anywhere else on the globe. When we went traveling in Europe, we paid less for everything that we got except railroad transportation, but for that we paid more. The Americans are an extravagant people. They allow the waterways, largely by way of rivers, to go unused. They abandoned the cheaper transportation for the swifter. But that situation today is changed. The waterway transportation situation today is not only cheaper, but swifter. What has happened in the last ten years? Very little money has gone into the railroads. Thousands of millions of dollars were needed to keep them up to the needs of the country, and the money has not been spent because it has not been available.

In the year of 1918, for the first time in this country's history since railroad building began, more miles of railroad were abandoned than were built. That same condition prevailed in 1919, but in a more marked degree. And where is it that the railroad's need is the greatest and the failure to keep up with the need is the most marked? Obviously in the cities, the cities of railroad terminals, because the expense of increasing those terminals is greater and the need of that increase is vaster.

So every time a railroad car has to go through several railroad terminals, it is meeting a constantly increasing congested condition. A railroad manager said here to you within the last month that when a freight car started from Chicago to New York City, when it got to Newark, New Jersey, it had just completed half the journey. When you consider the movements it has to go through from there on, half of the trip had been completed.

I happen to know that before the recent tie-up of the freight terminals throughout the country, the great industries in Ohio, using a large amount of cotton fabric—there were several of the factories—each one of those factories was keeping in operation day and night, each one of them, from seventy-five to one hundred motor trucks running from Boston to this Ohio city, carrying this cotton fabric, at a cost of sixteen cents a pound for the hauling, about half the cost of the complete fabric about five or six years ago, whereas the freight rate was a fraction of one cent.

Of course our Interstate Commerce Commission has been engaged for the last few years in tearing down that fraction of one cent, any time anybody asked it to help out the railroads. Yet they could afford to pay sixteen cents a pound rather than to allow their factories to lie idle.

They are no longer in that condition. Why? Because the customers' plants are tied up and they don't need that product. That is one situation we have in regard to that.

You may say the motor trucks are supplying the place of the railroads. What have these trucks, especially in the East, done to the roads where they have been used? They have taken the concrete roads and chewed them up so that they are impassable. They have done that all the way from the Atlantic seaboard to the Great Lakes.

There is the situation our transportation is reaching at the present time. Water transportation is not only cheaper today but faster than railroad transportation. What has happened in the last ten years to the cities on the lake where they have water transportation? One of those cities has advanced from the sixth city to the fifth city, another has advanced from the ninth city to the fourth city in the United States, and other cities on the lakes have grown almost in proportion.

I happen to know of industries that employ scores of thousands of men, located within thirty or forty miles of the Great Lakes that have already determined not to increase their facilities at their present factories, but to locate any increased facilities up thirty or forty miles where the lake is. Why? Because they want the swifter as well as the cheaper transportation by water. If they had canal transportation, barge transportation connecting with the lakes, they would not move their plants or put their extensions there.

Now, those, gentlemen, are a few of the many facts that exist today. It seems to me, and I cannot help but think that it is a strange time for the State of Illinois to be thinking of taking any step against this system of water transportation such as they now have throughout France and other European countries. Barge transportation, which is used very largely there, because it is cheap, although it is slow, here at the present time it would be not only cheaper, but swifter. Of course there are portions of this State that would not be benefited in proportion to those located on the canal, but for my part I can see no reason why those who are located distant from the canal should object to the expenditure of public money to improve parts of the State for waterways that are capable of improving the whole economic situation. They can expend their energy towards seeing that the State charges a reasonable toll so as to make a fair return on the expenditure, and, so far as it is necessary to return in the way of power, that could be done, and at the same time make the transportation by water a matter of wonderful economic benefit.

Mr. DUNLAP (Champaign). I think, Mr. Chairman, that I made my position clear the other day in discussing this question, that I was in hearty sympathy with the sentiment expressed by the last two speakers on this floor, and for the same reason, that the State might be benefited by increased transportation, and I endeavored to show you the necessity for increased transportation.

I regret, however, that so far as the adoption of Section 2 as proposed by the committee is concerned, I do not quite agree with the proposition submitted by the committee, and for this reason, the gentleman from Joliet, Mr. Corlett, said that he thought that the opposition came from the enemies of the waterway improvement. So far as I am concerned, that is not the case. I am in favor of the improvement of the waterways to the limit that is necessary to provide, not only for the development of the water power, but of the transportation by water. But this is the question as it presents itself to me: Shall this Constitutional Convention place in the Constitution a proposition that would amount in fact to a ten million dollar bond issue, in addition to that voted by the people, and ask them to vote again on that proposition at this time, and put it up to the people on the question of improving the waterways before any effort has been made to expend the funds that have been provided by them heretofore? I think that would be an unwise thing to do. I think that this Constitution will meet with a good many objections on the part of them, but they will go out and use this

as an argument against the adoption of the Constitution, perhaps, when it is not their real objection to the Constitution, and it may have some force on the adoption.

In other words, gentlemen, it is to attempt to make this a Waterway Convention, as someone has remarked, and put that matter before the people in that manner.

Now, it is said by the gentleman from Will that the increased cost of building this canal justifies the Convention in adopting this Section 2. He might still say that we might adopt an appropriation in aid of the issuing of bonds for the further building of hard roads in this State because of the increased funds necessary to build the roads of our project.

Now, both of those things are movements I am deeply interested in, but I doubt very much the wisdom of putting into the Constitution an additional bond issue for either of those purposes.

I believe once the building of this canal is undertaken, that when the waterpower is developed—if it cannot be developed the whole length of the canal, it certainly can be developed to a considerable extent; if the gentlemen who are making the statements on the floor are correct in their surmises that it requires fifty per cent more to complete it, they can put at least two-thirds of it through—and when that is done, my confidence in the people is such that I believe they will then complete the project they have undertaken, especially as I believe, as time goes on, the necessity for transportation of that character will become more and more evident to anybody who has anything to do with shipping.

It is not a question of confidence in the legislature making these appropriations. If we are to leave that matter entirely open for the legislature, I would not have the least objection to that proposition, to leave the matter open to make appropriations if they need some money in order to complete this canal, but here we are authorizing the legislature to issue bonds to the extent of ten million dollars. That is quite different from leaving the legislature with authority to make appropriations as they do in other matters that are of interest to the State. But I believe when we come to issue bonds of the State on questions of that character, it ought to be submitted to a vote of the people, and for that reason I favor the adoption either of the amendment of the gentleman from Schuyler or of the amendment offered by the gentleman from Cook, Senator Hull, and I am not particular as to which one is adopted, but I think one of those would be the wiser plan than to adopt the amendment as it appears in the committee report.

Mr. GREEN (Champaign). I have talked a little bit on this subject when this discussion arose on the first report of the committee. I was profoundly impressed with the question that was raised, that there was no limit on the amount of money that the legislature might appropriate. I cannot possibly agree with my distinguished colleague that I would be willing to take entirely off from the legislature any limit as to the amount of money it may appropriate in the waterways development, and for that reason I do not feel I am able to support the report of the committee as it was first presented.

It was, however, explained to the Convention at that time that there was not any intention of asking large appropriations and that they were perfectly willing that a limit should be set, and I believe that we are being led away from the real question here and are trying to put ourselves in the attitude of authorizing or voting ten million dollars for bonds. We are not doing anything of the kind. If we approve the report of this committee, the language of this section that the General Assembly may make, the General Assembly will have to vote the appropriation, or the bond issue, and this Convention in my judgment wisely set a limit beyond which they cannot go. That is certainly wise, and it certainly would be unwise to take the limit off, as has been suggested, and let them appropriate any money they saw fit. I am surprised at the inconsistency, really, which is presented in this debate. It seems to me that we are really making a mountain out of a mole-hill. There have been numerous propositions presented to this Con-

vention calling for the appropriation of funds, and numerous propositions curtailing or preventing the action of the legislature in defining and setting out new policies; all that this report of this committee does now is to say to the people of Illinois that this Convention keeps faith with the vote that they took for the construction of this waterway, and it is not going to retract the action there taken, but it realizes that twenty million dollars, under the circumstances under which it was then appropriated, would not perhaps accomplish the work laid out which it was intended to cover; that there would be the same reason today to do the thing which the people voted to do.

I have a great deal of consideration for executive officers having in charge any great business of this kind. They are the least appreciated, their efforts are the least appreciated of any service which they may render in any private capacity. We have here a Department of Public Works, and since this thing was presented before, I have taken the pains to discuss with the gentlemen in charge of that branch of the executive department of this State, their plans and their problems. In my judgment, a good way to kill this entire proposition is to limit this to twenty million dollars. For twelve years the executive branch of this State government has worked with the Federal government on the conditions which are presenting themselves, in an effort to bring about the fruition of plans which the people set out to do. They have just got the plans to do that, and now they come to us and say, "If we are limited to twenty million dollars, this project cannot be undertaken, this thing cannot be done, we want some reasonable laws." I say we are doing nothing more than confirming the vote of the people who confirmed this twenty million dollars, when we say, "Go ahead and complete this work as you were asked to do, so long as it shall not cost more than fifty per cent above the original appropriation which the people of Illinois allotted for that project."

Now, Mr. Chairman, I don't know whether this waterway will ever amount to anything or not, because, as I have said before, I have grave doubts of the State going into the power development business.

Various suggestions and inferences have been offered in regard to the condition of railroads at this time. There has been much wisdom given this Convention by the last two gentlemen who spoke to this Convention, from Chicago, in reference to this railroad situation. There is no question of railroad competition with this canal. The railroads of today are asking the people of this country to lighten their burdens, not so much their financial burdens as their physical burdens, because of the stress of starvation, brought on through the voice of demagogues, those who know more about the business than the man in it.

That leads me to believe that there may be some opportunity for the people of this country to have their industries progress and flourish by developing water transportation.

I just want to O. K. what the gentleman from Cook said in reference to industries thirty or forty miles from the Lake moving their plants to where they have water transportation. One of the leading things for the inland manufacturing plants today in their inability to secure money lies in the fact that transportation is so uncertain, that they can wipe out their plant, fixed assets, and move it to the Lake where you have joint rail and water transportation.

I have seen this waterway development attempted in a small way, and perhaps a large way, from St. Louis down the river. I have seen efforts made to take advantage of it; I have seen efforts made to build a water transportation in various forms, and I have not seen any of them succeed, but I can remember when it would have taxed the imagination of the delegates to this Convention to believe that you could carry mail from Washington to New York and New York to Chicago through the air. It is not for me to say that these engineers, and they are almost a unit, who have given this subject deep and learned thought, who say that there is a demand for the development of these natural resources by the expenditure of a com-

paratively paltry sum, it is not for us to say that we shall deny them the opportunity. Before me is Section 30 of the original article, which has passed this Committee of the Whole, in which I find the General Assembly may pass a law to provide for the development, construction, and maintenance of such projects, that is, the drainage of lands for agricultural and other purposes in whole, by drainage districts, or for the purpose of making surveys and draining to improve the water courses, in part at the expense of the drainage district and in part by the State, or any political subdivision thereof. I have no hesitation in saying that we will need an enormous amount of that kind of work in my county, and if there is the same amount of work in each county throughout the State, it is fair to assume that there should be one hundred million dollars spent in all the counties of the State. I am in doubt at this time whether I shall support that.

I cannot see anything consistent in voting for one hundred million dollars on something which is brand new in the Constitution, a thing that has not been in the Constitution before, and then making so much fuss about this ten million dollars to give the opportunity to the executive officers to bring to fruition the plans laid out. If this thirty million dollars has been wisely invested, as has been said, the people may be called on for further appropriations for further development, but this waterway proposition has been in the Constitution. I do not think this is a new problem at all. I don't think we need worry about going back to the voters for ten million dollars. They voted for it when the State was less able to pay it by two or three times, than it is now, when the dollars looked bigger and more like cart-wheels than today. I think they are reasonable when they say all that they want is elasticity to give the legislature power to make these appropriations from year to year.

With apologies for personal reference, I might say that I have made it a rule all my life not to fight with drainage districts, but if I could, to get on the constructive side. If this project develops better than I hope, I would hate to feel that I put the drags on the comparatively small effort of the State to do a great work, to connect the Lakes and Gulf by a deep waterway.

I think it is about time, after all, if we can, to have some courage on these things. So far as I am concerned, I am sure the people in the district in which I live will expect us to come back with some information, and that they will be guided in a large measure by the confidence which they reposed in us when they sent us here. In that regard, I am reminded of a story that I once heard of a delegate who was sent to the General Assembly, and the district which he represented was especially interested in one bill, and the clause providing for a referendum was put in, and he brought it back to his people, and at a meeting an old man rose up and said, "Why, we sent you to the legislature as our representative," and his literal language was, "What in Hell do we know about it, if you vote to bring it back here?" It seems to me that is the kind of action we should do here, either kill the twenty million dollars or give the executive officers an opportunity to prove the faith that is in them.

Mr. WILSON (Cook). I have a telegram here from Frank I. Bennett, Director of Public Works, Chicago, that I would like to have the clerk read. There was a discussion a while ago that led me to think that on reaching Chicago Friday night I might find the Lake dry. This says there is more water in the Lake above the City Datum than before the district was opened:

"Chicago, Ill.

Hon. Walter H. Wilson,
Constitutional Convention,
Springfield, Ill.

Official records show that for five years prior to opening of Sanitary District Canal, the water of Lake Michigan averaged Chicago City Datum; for the following five years it averaged six-tenths above City Datum; for the following five years it averaged seven-tenths foot above City Datum;

the following five years it averaged eight-tenths foot above City Datum; the last three years of which it averaged one and four-tenths foot above City Datum. The canal opened in Nineteen Hundred, elevation of water in Lake Michigan being three-tenths foot above City Datum and in Nineteen Hundred Nineteen one and four-tenths foot above City Datum, being one and one-tenth foot higher in Nineteen Hundred Nineteen than when canal opened. In May Nineteen Hundred Twenty the water stood one and twenty-three hundredths feet above City Datum.

F. I. BENNETT."

Mr. MORRIS (Cook). I move that we recess now until two o'clock.

Motion prevailed and the Committee of the Whole took a recess until 2:00 o'clock p. m. of the same day.

2:00 o'Clock P. M.

The Committee of the Whole met pursuant to recess.

Chairman Lindly, in the Chair.

CHAIRMAN LINDLY. The question is on the amendment of the gentleman from Schuyler.

Mr. FIFER (McLean). I would like to see if I understand the situation as it is now presented to the members of the Convention; my recollection is that there is first the motion made to adopt Section 2 of the proposal; then Senator Hull made a motion that it be submitted to the people separately. Now I want to explain in regard to that, without making any address on the merits or demerits of the proposition that is before us, if the senator's proposition carries and it is submitted separately the voters will be placed in this awkward position, if they vote against it and it fails to carry, then the General Assembly will have unlimited power to appropriate a billion dollars to this project if they so desire. And they would not like it very well to have this thing presented to them in that awkward situation, and most likely the people who are opposed to it, and maybe others, would be induced to do likewise, they would vote against the entire Constitution, so that to submit separately as a separate proposition gives the people no chance at all, because if they succeed in defeating it they are in a worse position than if it carried. Then came the proposition of the member from Schuyler, which provides that before money can be appropriated from the treasury for this purpose, the bill making the appropriation or by some means devised by the legislature, the question will be submitted to the people.

So far as the twenty million dollars is concerned, that is nailed and spiked down by the first section of the proposal which has already been adopted. The second section provides that the General Assembly shall have the power to appropriate ten million dollars more. It is the opening of the gap that was closed up by the Constitution of 1870, to the amount of ten million dollars. The gap that was closed by the Constitution of 1870 was opened by a vote of the people to the extent of twenty million dollars, but thus far they could go, and no further. Now, to submit the proposition as a separate amendment, as I have said to you, is no separate opportunity at all, because to vote it down will leave the General Assembly unlimited power to appropriate just what they please.

Mr. TRAUTMANN (St. Clair). Under what section does the General Assembly get the authority to make unlimited appropriations if the people vote down Section 2?

Mr. FIFER (McLean). They do not have to have any authority. This is a new Constitution, and the General Assembly can do anything and everything that this Constitution does not say they shall not do. It is an instrument of limitation. We give to them by the very first section in the legislative act all of the legislative powers the people themselves have in their legislative capacity, and they have that.

Now, this second section does two things, it extends the power of the legislature to appropriate ten million dollars more, and then it provides that they shall not go beyond that ten million unless it is submitted to a vote of the people, and when the whole section is voted down, why there is no limitation on the General Assembly, and they can vote what they please.

Now, the substitute of the gentleman from Schuyler does not interfere with what is done in the first section of the proposal, but it only provides if you want other extensions, want more money, the people must so say at some general election. That is all, as they said in the amendment of the Constitution in 1908.

Now, gentlemen, it seems to me there is nothing unfair about that, and I repeat, in my humble judgment, you will endanger the adoption of this Constitution if you present that question in that form to the people of Illinois. I have heard a great deal said here in this discussion that the people—and it seems as though the advocates of the measure never get tired of saying and alluding to the fact—that the people in 1908 authorized this twenty million dollars. So they did, and we authorized it here and spiked and nailed it down so that there is no doubt about that, but the second section as it now stands in this proposal provides for ten million more, where the people have no show but to go out and specially vote it down, and then they are in a worse position than before—

Mr. REVELL (Cook). Just indicate again the dangers to the ratification of the Constitution in connection with the waterways scheme. Has there ever been a time when a waterways scheme has been presented to the people of the State of Illinois where they have not overwhelmingly supported it?

Mr. FIFER (McLean). It has only been submitted once, in 1908, when that was a constitutional amendment. Now surely the gentlemen of this Convention would not want to submit this to the people of the State in a way that if they vote it down, they are in a worse position than if they vote it up. It is submitted to them for the avowed purpose of either repudiating the ten million dollars of money, unless they wish to appropriate it, or if they succeed in voting it down, then they vote power to the legislature to do just as they please, and they can vote a billion dollars.

You don't want to do that, I believe. The other proposition is this, of the gentleman from Schuyler. You have got your twenty million dollars made fast by the first section, and if you want the other ten million, it becomes necessary to submit it to the vote of the people, as you did in 1908, and see what they want to do about it, that is fair and I am willing to vote for it.

Mr. REVELL (Cook). The twenty million dollars was made fast by the people.

Mr. FIFER (McLean). It was made doubly fast in this Convention. We could add a provision in the schedule and submit it to the vote of the people before you could use that twenty million dollars. We vote twenty million dollars; nobody has disputed that. You vote on it and are bowed to the decree of the majority of the Convention. You will have ample time, and the people will have ample time, to vote on this question. They will take many years to spend that twenty million dollars. It will take many years. My friend from Joliet says you can trust the legislature. The Constitution of 1848 trusted the people and as a result the State was made bankrupt.

The literature that was presented to this Convention for its guidance shows it was made bankrupt. There we have that example. The people want to vote on this question, and it is only fair that they should vote on it.

Mr. COOLLEY (Vermilion). I promise to be very brief, but I do want to call the attention of the gentlemen to two things before this question is voted upon.

It has been with some regret that I have listened to the remarks with regard to this being a local question and in the interests of a certain

locality, and I have no hesitancy in saying, could I be convinced that any portion of this State, any city within our bounds, had a great need, I could immediately see my way clear to support the measure, but after all has been said and done, we have been debating here for hours whether or not we shall violate a principle. Not that it matters here about the value of the future of this waterway. My faith in the project is of no interest to you, but this principle is: Shall we hereby violate the principle which we have maintained since 1870, to let the people incur their own indebtedness, their own bonded indebtedness? I should oppose this proposition just as strongly at this time if the sum involved was two million dollars as ten.

It has been said here that this is an effort to tie the hands of the legislature. What else could it be? The gentleman from Champaign who spoke so well this morning in behalf of this measure pleaded with you not to tie the hands of the legislature, and that is one of your functions, one of your chief functions, to limit the actions of the legislature. Let us not do this thing. You have only involved here ten million dollars. I will admit the sum is small, relatively speaking, but the principle involved is the same. Who knows that the twenty million dollars will not be sufficient? Who knows that thirty million dollars will be sufficient? Now, we have undone nothing, involved in this constitutional amendment, so far as this waterway is concerned, we are just where we began, and I dare say no man here heard the need of this waterway urged before he came here. What I mean is no man understood that was a part of our duties here. To my mind, if we leave this matter as it was, and leave the people to vote their own bonds, we will have done well.

The other point that I wanted to make is the manifest unfairness of the amendment offered by the gentleman from Cook. For the reasons given to you by the Governor, the people would be placed in a most bewildering situation. They will be placed in a situation where they will be compelled to pass the measure or vote against the Constitution. That is unfair.

Mr. PADDOCK (Sangamon). I move the debate be closed.

(Motion adopted.)

CHAIRMAN LINDLY. The question is on the substitute offered by the gentleman from Schuyler.

(Motion lost.)

CHAIRMAN LINDLY. The question before the committee is on the amendment of Mr. Hull that we adopt Section 2, but that it be submitted as a separate proposition.

Mr. HULL (Cook). The gentleman from Will, Mr. Corlett, suggested that these amendments were offered in the spirit of hostility to the waterway proposition. I simply want to say by way of personal privilege that I have voted as a member of the legislature for every waterway proposition, and I have been prompted to introduce this amendment solely out of consideration for the Constitution that we submit to the people of this State, and the fear that in submitting a proposal of this kind we may be prejudicing the rest of the Constitution if we submit it all as one instrument. This is an internal improvement scheme, this waterway proposition, and it differs from the rest of the Constitution in character, and the provision for the issuing of an additional ten million dollars worth of bonds, it seems to me, ought appropriately to be submitted separately, and it was therefore not out of a spirit of hostility to the waterways proposition, but rather out of regard to the adoption of the Constitution which should be submitted to the voters that I offered this amendment.

Mr. JARMAN (Schuyler). Suppose it is voted down, this Section 2, at the election for the adoption of the Constitution.

Mr. HULL (Cook). They cannot issue ten million dollars worth of bonds without some Constitutional provision.

Mr. JARMAN (Schuyler). By reason of what?

Mr. HULL (Cook). By reason of the provision in the first paragraph, isn't it there?

Mr. JARMAN (Schuyler). Not at all, you authorized the legislature to vote any amount it pleases when you vote this down.

Mr. HULL (Cook). You permit them to make any appropriations, but you don't permit them to incur additional indebtedness.

Mr. JARMAN (Schuyler). Where is there anything in the Constitution which would prohibit or limit the legislature from appropriating any money it wanted to?

Mr. SHANAHAN (Cook). I might call your attention to one of the legislative articles of the General Assembly, that in no case shall it make any appropriation over one million dollars in incurring indebtedness.

Mr. JARMAN (Schuyler). Making an appropriation out of taxes is not incurring indebtedness.

Mr. SHANAHAN (Cook). Certainly, every appropriation is indebtedness.

Mr. TRAUTMANN (St. Clair). It seems to me the objection raised by the gentleman from McLean and Schuyler that if the motion of the gentleman from Cook, Senator Hull, prevails, that this Section 2 be offered separately, that there is some danger of unlimited appropriations. If it is defeated by the vote of the people, the bars are thrown down and the legislature can appropriate any sum it sees fit. If that is true, gentlemen, isn't it possible before we adjourn, sometime next year, to put in a little provision saying that the legislature cannot run wild in making these appropriations without first submitting the question to the people, providing that in case this is defeated?

Mr. BARR (Will). I understand the motion now is to submit Section 2 to the voters as a separate proposition, if it is adopted here. If this motion is voted on and this section adopted, this little amendment that is spoken about will not be necessary. It occurs to me that we are in a very proper position to vote on this amendment, and if there is some other amendment let us take that up later. I assume it will be. I don't see how we can offer an amendment assuming this motion is going to prevail, until it has been acted upon by the Committee of the Whole. It seems to me the logical course to pursue would be to vote on the amendment offered. If that is voted down, the later amendment suggested would be unnecessary. If it is carried, I assume another amendment can be offered promptly to meet the situation suggested. It seems to me we ought to vote on the amendment now before the committee which is offered by the gentleman from Cook.

Mr. MILLER (Cook). In the present Constitution, Section 4, it says the General Assembly shall never draw on the credit of the State or make appropriations from the treasury thereof in aid of railroads or canals, that is, speaking generally.

As I view this draft, there is no limitation on appropriations in aid of canals or railroads generally. In other words, that general prohibition is omitted, while in Section 2 there is a limitation. I mean there is a limitation of getting appropriations or issuing bonds beyond ten million dollars. It seems to me, whether we vote Section 2 in as it stands, or vote to have it submitted separately, as proposed by Senator Hull, that that whole provision in the Constitution would prevail, because otherwise there would be no prohibition against other paragraphs against loaning the credit of the State than those relating to this particular matter. I personally shall vote against Senator Hull's proposed amendment, on the ground that it seems to me that we are simply confirming what has been done by the people when we add a possible ten million dollars to this sum, because if twenty million dollars was not too much in 1908, certainly thirty million dollars is not too much now, and for that reason I shall, as I said, vote against Senator Hull's amendment. But, whether or not the amendment carries, it seems to me this other provision ought to go in after that is voted upon, and I shall offer that as a separate section.

CHAIRMAN LINDLY. The question is if Section 2 is adopted, it shall be offered as a separate proposal at the time the Constitution is voted on.

(Lost.)

CHAIRMAN LINDLY. The question recurs to the adoption of Section 2.

(Adopted.)

CHAIRMAN LINDLY. The question is now on Section 3.

(Adopted.)

CHAIRMAN LINDLY. The question is on the adoption of Section 4.

Mr. GREEN (Champaign). I would like to ask a question as to the construction which you, as chairman of the committee, put on that section. Do you understand that that only applies where it refers to leasing the canal? To leasing the entire canal or waterway, or would it apply to leasing tracts or sites along the waterway, sale of water power sites, or is it intended that that shall only apply to leasing the entire waterways or the entire canal?

CHAIRMAN LINDLY. My understanding is that this was intended to permit the leasing of grounds along the I. & M. canal where they expect to build terminals and connect with all of the roads running into Chicago. There is no intention, as I understand it, of leasing the entire canal whatever.

Mr. DIETZ (Rock Island). That is Section 5, there is no question of the intention of Section 5.

Mr. SCANLAN (LaSalle). I think this section refers to the old provision, and it is on the theory that a lease might amount to a sale, so we put that word "lease" in.

Mr. GREEN (Champaign). Does it apply to water power sites or all waterway?

Mr. SCANLAN (LaSalle). I think the whole waterway.

Mr. JARMAN (Schuyler). The trouble with Section 4 is "as provided herein." Strike that out, and I think there is probably no objection to it.

CHAIRMAN LINDLY. Do you offer such an amendment?

Mr. JARMAN (Schuyler). I move those words be stricken out.

Mr. CORLETT (Will). The motion, as I understand it, of the gentleman from Schuyler is to strike out the words "except as provided herein." That I assume applies to every part of the article. I agree with the gentleman from Schuyler that it limits or has reference to Section 5 where it is provided that the Illinois-Michigan canal, or any part thereof, for the purpose of transportation, etc. I take it that it was not the intention of the committee that a part of the Illinois-Michigan canal would not be leased for the purpose of providing terminals or for transportation in connection with the waterways.

I would regret very much to have the motion to amend prevail. If there is a fear, as the gentleman from Schuyler seems to think, that under the provisions of Sections 4 and 5, the entire Illinois-Michigan canal might be leased without submitting it to a vote of the people, it would be a very easy matter in Section 5 to provide any lease of any portion of the Illinois-Michigan canal should be limited to the purposes of transportation in connection with the waterway, and we would remove the objection that is pointed out, and I do not know any reason why it would not be entirely proper.

My understanding of the provisions for leasing for transportation is to provide terminals appearing in Section 5 and permitted by the exception in Section 4, which the gentleman moves to strike out, to provide for terminals at the upper end of the Illinois-Michigan canal, about which I spoke this morning, where the Illinois-Michigan canal intersects the Chicago River near Ashland avenue in the City of Chicago. At least I would regret to have the exceptions stricken out of Section 4, which would make the use of the Illinois-Michigan canal impossible as it is proposed to use it.

(Amendment lost.)

CHAIRMAN LINDLY. The question is on the adoption of Section 4.

(Section 4 adopted.)

CHAIRMAN LINDLY. The question is on the adoption of Section 5.

Mr. JARMAN (Schuyler). I offer the following amendment and move its adoption:

"Strike out the words 'for the purpose of transportation for' in line 2 of section 5."

Now, anything in connection with the terminals of the Illinois-Michigan canal would be leased. Even if it is for railroad transportation, it would be leased. I submit to the Convention, if it is left as it is, it permits the leasing of the whole Illinois waterway.

CHAIRMAN LINDLY. I see no objection to that amendment, as far as the chairman of the committee is concerned.

(Amendment adopted.)

CHAIRMAN LINDLY. The question now is on the adoption of Section 5 as amended.

(Adopted.)

CHAIRMAN LINDLY. The question is now before the committee on the adoption of Section 6.

Mr. MILLER (Cook). I wish to move as an amendment to Section 6 the following amendment be added to the end thereof: "otherwise than as in this Article provided, the General Assembly shall never loan the credit of the State or made appropriations from the State Treasury in aid of railroads or canals."

CHAIRMAN LINDLY. May I suggest this question was under discussion and we struck that out entirely because it was covered in the legislative article, I think Article 4, which provides that the State cannot loan its credit to private corporations and individuals, etc. That section covers both the canals and railroads, and for that reason was left out in this. It was discussed in the Committee on Legislation.

Mr. MILLER (Cook). You say it is in the Article on Corporations?

CHAIRMAN LINDLY. It is in the legislative article on corporations.

Mr. MILLER (Cook). The provision there covers both railroads and canals?

CHAIRMAN LINDLY. Covers everything of that kind.

Mr. MILLER (Cook). Then I withdraw it.

Mr. GILBERT (Jefferson). There is no reference to canals in the corporation article.

Mr. MILLER (Cook). Then it should go in here.

CHAIRMAN LINDLY. It can go in on second reading.

Mr. RINAKER (Macoupin). Section 5 provides that the General Assembly may authorize the lease of the Illinois-Michigan canal or any part thereof for the purpose of transportation or to provide terminals in connection with the Illinois waterways or any other navigable channel. Such terminals shall be for public use upon equal terms. The clause permits appropriations, if I read it correctly, from the treasury generally for the purpose of maintenance and preservation of the canal.

CHAIRMAN LINDLY. Only from the receipts of the canal.

Mr. RINAKER (Macoupin). No, I beg your pardon, this prohibits an appropriation except for maintenance and preservation, and it therefore permits appropriations for maintenance and preservation without restriction to its being taken from the special fund, and if you lease this for railroad purposes and terminal purposes you may permit the appropriation of large sums of money to maintain and preserve the railroads that may be constructed for terminal purposes within the boundaries of the present canal.

It seems to me that the words "except for the maintenance and preservation thereof" should be stricken out, and I so move, and the words "any fund other than".

Mr. BARR (Will). I would like to ask the delegate from Macoupin, with reference to the intention of this amendment. Is it the idea in case there should not be sufficient funds derived from the operation of the Illinois and Michigan canal that the State would not have the right to keep that property in repair or spend any money on it?

Mr. RINAKER (Macoupin). Yes, it is a legislative proposition. The idea is this: Where you have given authority to the legislature to lease property for terminal purposes, as you have in the preceding section, it

shall be incumbent on the legislature and those having charge of the leasing to see at least that the proper maintenance and preservation of the property shall be provided for by the leases.

Mr. BARR (Will). Supposing it is not leased?

Mr. RINAKER (Macoupin). Then I imagine it will not take much maintenance or preservation if it is not leased.

Mr. BARR (Will). Of course I don't know the plan in contemplation here.

Mr. RINAKER (Macoupin). The idea of it is, if you are going into the leasing business, there ought to be such general restriction and notice to those dealing with them that they shall make it preserve itself in any event, and there shall not be left open to the legislature an opportunity to take from the public treasury funds to maintain the great waterway that you establish by this article. If it is a business proposition, it will carry itself.

Mr. BARR (Will). A large part of the Illinois and Michigan canal, extending many, many miles down below the waterway will not be used in connection with this waterway.

Mr. RINAKER (Macoupin). Very well, then, it will lie there; it won't hurt anything. With the growth of this waterway it will not be very long before it reaches down to that point, if it grows as fast as those in favor of it say it will. At any rate it should not be left open.

Mr. BARR (Will). Is there any assurance that the waterway will not pass a long distance from the Illinois-Michigan canal?

Mr. RINAKER (Macoupin). I know nothing of that.

Mr. BARR (Will). I understand that the waterway from Lockport down will not be near the Illinois and Michigan canal.

Mr. RINAKER (Macoupin). Then you have provided the means of disposing of the property by authorizing the sale of it. If you cannot use it, then sell it.

Mr. BARR (Will). Perhaps that might do.

Mr. MILLER (Cook). I find in the corporation article the prohibition is limited to railroads, that is the prohibition against loaning the State credit to railroads, and private corporations. I am told by a gentleman on that committee the canals were omitted there because it was assumed that that subject would come up in the consideration of this article.

CHAIRMAN LINDLY. I think the gentleman is correct, and I will recognize you on your amendment.

Mr. TAFF (Fulton). I rise to support the amendment which has been offered by the gentleman from Macoupin. As I understand it, those who have been speaking in favor of the waterway proposition have assured this Convention in case the proposition goes through there will be at least one and one-half million dollars profit each year on the proposition. Therefore I don't conceive or realize why this section should provide for the maintenance and support of the proposition out of funds other than those which arise out of the proposition.

Mr. HULL (Cook). I would like to ask the gentleman from Will a question. Isn't it a fact that now appropriations to the Illinois-Michigan canal are barred?

Mr. CORLETT (Will). That is true under the old Constitution.

Mr. HULL (Cook). Under the old Constitution appropriations for the Illinois and Michigan canal are no longer allowed.

Mr. CORLETT (Will). This is simply a matter of providing the State with power to preserve and take care of its property, the same as anybody else takes care of property; that is all.

Mr. HULL (Cook). I asked the question simply because it is helpful to me. I am inclined to favor the amendment offered by the judge.

Mr. FIFER (McLean). I think I can answer the gentleman's question. The old Constitution provided you could appropriate for the upkeep, but you could not go beyond that. What the State has been appropriating is about fifty thousand dollars annually to that upkeep; but early in this

century there was a suit against one of the canal commissioners to test that question; they had appropriated money out of the treasury other than the proceeds out of the canal, and the Supreme Court said it was illegal. This provision that we have adopted allows the proceeds of the canal and this waterway that is talked of to be appropriated, and leaves the State authority to appropriate an unlimited amount for the upkeep of that canal and the waterway. That is the vice of the proposition that has been adopted.

(Amendment adopted.)

CHAIRMAN LINDLY. The question is on the adoption of the amendment of the gentleman from Cook.

Mr. MILLER (Cook). That proposition was contained in Section 4 of the present Constitution, only the present Constitution limited it to the word "railroad" which is now in the corporation article, and did not include the word "waterways," but substantially that has been the policy of the State for fifty years to adopt the entire policy. Now, omitting from the Constitution these words of the old Constitution would leave the legislature free to appropriate money to improve the rivers, harbors or other waterways throughout the State, and I suggest that we do not want to change the policy of the State in that respect.

CHAIRMAN LINDLY. This body has adopted a proposal on drainage in which the main purpose of the act was that the State should use money to open up the outlet to the rivers of the State of Illinois, to take care of the drainage of the land. Would this destroy that?

Mr. MILLER (Cook). I don't know. For my part I think I am willing to take a chance.

CHAIRMAN LINDLY. This would absolutely bar the legislature from making any appropriations on any waterways for the purpose of opening up the outlet and for the purpose of drainage in this State.

Mr. MILLER (Cook). After the experience Congress had in the appropriation for waterways and harbor improvement throughout the country, it seems to me it would be a very great danger to open up the road for our legislature to, as it will, appropriate money without limit for the improvement of waterways, canals and harbors in this State.

CHAIRMAN LINDLY. I agree with the gentleman, but I am asking him if we are going to try here to destroy part of the work that we have done?

Mr. MILLER (Cook). All I can say, Mr. Chairman, if that is the effect of it, I am willing to take the chance.

Mr. SCANLAN (LaSalle). I don't think that is needed, in view of Section 2.

Mr. MILLER (Cook). Section 2 refers only to the particular waterway that is mentioned.

CHAIRMAN LINDLY. Well, if you are attempting to tie the hands of the legislature from making improvements that are asked for in the southern part of the State by Mr. Gee and others, all right.

Mr. MILLER (Cook). The hands of the legislature have been tied that way for fifty years, and very much to the credit of the State, but not before that.

Mr. DUNLAP (Champaign). I move to amend the amendment by striking out the word "waterways." We adopted here the proposition, as the chairman of the committee has stated, with reference to drainage matters and now an effort is being made to pass a proposition exactly contrary to that. It does not seem that we ought to go into a discussion of that matter at this time, having discussed it heretofore, but it seems to me that we ought to go into it far enough at least to amend the amendment by striking out the words "or waterways." We have provided in Section 2 of this Article with reference to waterways what shall be done with them. Now, the gentleman offers the amendment because we have had in the Constitution for fifty years that no appropriations shall be made for canals. Perhaps that is all right, but to put in in addition to that a provision which has reference

to waterways outside of the Illinois River, and this special proposition of twenty million dollars, it does not seem that that is a part of this section having adopted that provision in another part of the Constitution. Therefore I move that be stricken out.

Mr. MILLER (Cook). In view of what has been said for the present Constitution, I am willing to accept the amendment and strike out the word "waterways."

CHAIRMAN LINDLY. We are inclined to accept the amendment.

Mr. WILSON (Cook). I hope the amendment will not prevail. I don't think it is necessary at this time.

(Amendment adopted.)

CHAIRMAN LINDLY. The question is on the adoption of Section 6.

(Section 6 adopted.)

CHAIRMAN LINDLY. The question is on the adoption of Section 7.

Mr. RINAKER (Macoupin). The section as it reads does not provide for any revaluation except as to leases for water power, and it seems to me that the provision in Section 5 authorizing the leasing for terminal purposes is a matter of at least equal, if not greater, importance, for the reason that the terminals will be constantly increasing in value with the increasing use of the water, and therefore it seems to me that if railway or terminal facilities are to be provided by leasing, they should also be revalued, and I therefore move to amend Section 7 by inserting after the word "power," the words "or terminal purposes."

(Amendment adopted.)

Mr. SIX (Pike). I offer the following amendment, and move its adoption:

"After the expiration of any lease or revaluation period, the State shall have the right to take the property for itself or for a new lessee, upon the payment of a fair, just and sufficient compensation for the property, and for all dependent property, if taken, and if the dependent property is not taken, then fair, just and sufficient compensation shall be paid for all such damages. Provision may be made that the old lessee shall have priority over any new lessee."

CHAIRMAN LINDLY. It strikes me as being identical with the law passed by the last General Assembly. It is a proposition for the legislature to take care of, and not for the Constitution.

Mr. SIX (Pike). I wish to say that this amendment was approved by the United States Business Chambers of Commerce and the essence of it is adopted by the committee from that chamber, with the recommendation that it be the principle adopted in developing and leasing waterpower sites. It strikes me while it is legislative in character, it is a benefit which is both to the advantage of the State and the utility. Let me call your attention again to this, there is no limit to leases on Section 7. This gives you an opportunity for a revaluation period every twenty years, so the State will have a right to come in. Under Section 7 there is no such limit. You might get a ninety-nine year lease, and all you do is to get a revaluation at the end of twenty years. Under my proposition you step in and get a new lessee, if you desire to do away with conditions which might be injurious to the State. The utilities will be supplying private enterprises. This is a big question, and I think the amendment is of advantage to both the utility and the State.

Mr. SCANLAN (LaSalle). That might be all right for the Federal Government, but I do not think we ought to write into an original document such as the Constitution of the State of Illinois, such a provision. It ties the hands of the State legislature for years. I think this is a safe proposition to be left to the General Assembly to provide the legislation necessary for the leasing of these water sites.

(Amendment lost.)

CHAIRMAN LINDLY. The question is on the adoption of Section 7 as amended.

(Adopted.)

Mr. REVELL (Cook). I move the adoption of the entire article.

Mr. JARMAN (Schuyler). I offer the following additional section and move its adoption, as Section 8:

"The State shall be liable for all damages to real estate, crops or timber which shall be overflowed or otherwise damaged by or from the water caused to flow through such waterway, and no statute of limitations shall bar the recovery of such damage."

I would like to be heard on this matter. I don't know to what extent this Convention will go in dealing, as I can see, fairly with the people down State along the Illinois River where this water you are going to send down upon us, goes.

Now, you propose to build a great waterway and you say it would be a great advantage to the State. You say it would be an immense advantage to Chicago in its transportation facilities, and yet you propose to take this water out of Lake Michigan and send it down the Illinois River for all time to the amount of from four thousand cubic feet a second, to the amount, as Mr. Bennett said the other day, of fifteen thousand cubic feet a second, and to overflow the lands of thousands of acres along the Illinois River owned by other property owners.

I appeal to you, is that fair? At the present time the sanitary district has been sending water down there, it has overflowed lands and destroyed crops and timber and they are absolutely without recourse and have been for years. Is it fair to destroy the property of these landowners and tenants for your own advantage without any recompense? If it is not, then it is fair to adopt this section and give to these landowners and tenants who own this land which you are going to destroy for your own benefit without recompense, because what you give here there will be no recompense and there can be no recompense. I don't want to extend the matter further; you understand the situation. This section simply says if there is any damage caused to the land, crops or timber by reason of this water, then the State shall pay the damage. Is there anything unfair about that? Would any of you think it was unfair if you owned the lands? Therefore I ask you to deal fairly with these people along the Illinois River.

Mr. DEYOUNG (Cook). You say that the landowners today are without any recourse, so far as the sanitary district is concerned?

Mr. JARMAN (Schuyler). I do say that.

Mr. DEYOUNG (Cook). Do you know as a matter of law that the sanitary district as a municipal corporation is liable to such damages?

Mr. JARMAN (Schuyler). Yes.

Mr. DEYOUNG (Cook). Do you know that many suits are pending against the district and many in the past have been disposed of?

Mr. JARMAN (Schuyler). Yes.

Mr. DEYOUNG (Cook). Then they have recourse in the courts today?

Mr. JARMAN (Schuyler). Yes.

Mr. DEYOUNG (Cook). Then it is not accurate when you state that they have no recourse.

Mr. JARMAN (Schuyler). It is absolutely accurate.

Mr. DEYOUNG (Cook). Although they do have their legal remedy?

Mr. JARMAN (Schuyler). This is the situation, the Supreme Court said these were temporary damages, that the sanitary district sent water down the Illinois River and destroyed the land by the water, from year to year. That was a temporary damage, they said. That was in the Jones case, by a divided court, and afterwards they took that back and said that was permanent damages and the statute began to run from 1900 to five years after that.

Mr. DEYOUNG (Cook). But the landlord had five years in which to institute his suit?

Mr. JARMAN (Schuyler). Absolutely.

Mr. DEYOUNG (Cook). Just as you have in many other cases where the limitation runs against you, and you have not filed within your statutory period.

Mr. JARMAN (Schuyler). I understand.

Mr. DEYOUNG (Cook). You think the landowner should be made a privileged claimant against the State when no other claimant against the State is privileged? Do you think a special kind of damage should be favored as a claim against the State?

Mr. JARMAN (Schuyler). No, it is not put that way. The matter arises out of the difficulty of the present situation. The sanitary district in 1900 began with 167 cubic feet of water in the canal, and there was a great deal of land that was not touched by that amount of water. Afterwards they continued from year to year to put in as high as 10,000 cubic feet per minute. It is impossible to determine when the statute of limitations begins and ends, with reference to any additional water that was put in there. Another thing, the water that interferes with crops and destroys timber, and floods the land is in the springtime when the floods come. The floods come from the upper land and all the Illinois River and all along Lake Michigan, and during that time there is a natural flow of water in the Illinois River on account of the increased flow of the sanitary district canal opening up its gates because it cannot keep them closed on account of the increased water, and they send that down every springtime. It sometimes is as much as fifteen to eighteen thousand cubic feet a minute. Therefore it is impossible to determine and prove a fixed time with reference to the statute of limitations, and that is the reason it is wrong.

Mr. DEYOUNG (Cook). The statute of limitations would not begin to run until the land had been overflowed by those waters?

Mr. JARMAN (Schuyler). It is very doubtful, from what the court has said. The court has said it is a permanent condition, and that the statute of limitations begins to run from the time the ditch is constructed.

Mr. DEYOUNG (Cook). You do not mean to say that the statute had begun to run before the land had been subjected to the overflow?

Mr. JARMAN (Schuyler). It is a question of very grave doubt as I read the last case in 270 Illinois.

Mr. DEYOUNG (Cook). You certainly cannot arrive at any such opinion from anything the Supreme Court has said.

Mr. JARMAN (Schuyler). I certainly can.

Mr. FIFER (McLean). I tried to show, in the few remarks I made last Thursday evening, that ultimately Chicago would go out of this drainage district. They will have no need for it, and it seems to me that no fair-minded man in this Convention can controvert that. The time will come, if this deep waterway project is a success, when Chicago will own, as it does now, from Lockport nearly to Chicago. We will pick it up at Lockport and continue it to Utica, making it one continuous waterway from the Illinois River to Chicago. Chicago must, in the eternal nature of things, take care of its own sewage. Instead of a city of three millions, as we have it today, it won't be very long until it will grow to a city of eight or ten millions, as large or larger than London. Now, that shows that they must go out of that business. We have no rights to run boats through that drainage district except by sufrage of the City of Chicago. The ultimatum of the whole thing will be if the State goes on with its end of the deep waterway, that we will have to buy out Chicago, and the State will own the whole line, and then I would like to ask my distinguished friend from Chicago, if they succeed in getting an increase of water, whom he would sue for the damages done these people along the Illinois River? Would you sue the State?

Mr. DEYOUNG (Cook). May I ask the Governor, is the question directed to me?

Mr. FIFER (McLean). Yes.

Mr. DEYOUNG (Cook). I do not happen to come from Chicago. I think that any claimants from damages along the Illinois River will be in exactly the same position as any claimant for damages against the State. We have now that is called a court of claims, which is not a court, of course, but which passes upon the facts. I do not believe that the State should ever

be subjected to the same sort of a liability than an incorporated municipality is. I think we would set a bad precedent, and the cure is infinitely worse than the disease. There is not the slightest question that if the State of Illinois, in its sovereign power, is responsible for damages, that it will act justly through whatever instrumentalities it may itself create without subjecting it to a definite legal liability to be enforced in court.

Mr. FIFER (McLean). I am quite familiar, Mr. Chairman, with the Court of Claims of Illinois. I advocated that when I was in the service of the State and secured the bill that created the Court of Claims. That Court of Claims can render no judgment that can be collected. It is only an investigating committee for the General Assembly of the State, and the General Assembly can pay the awards rendered by that commission or they can turn them down, as they please. The State of Illinois is, in a sense, responsible, as a moral obligation resting upon it today, to pay these people—most of them in moderate circumstances—for millions and millions of dollars' worth of property that has been taken away by this action of the people of the State of Illinois. It is true that there is no legal obligation upon the State of Illinois, because the State cannot be made defendant in a law suit. Probably the drainage district of Chicago would be liable, but we have heard from the distinguished member from Schuyler the circumstances, the hocus-pocus, by which these people have been damaged and no remedy has been afforded. Now, it seems to me that in view of the fact that it will only be a few years when the City of Chicago will be out of it, and then what? Oh, you say the great State of Illinois will pay it because it is a moral obligation. The moral obligation rests upon the great State of Illinois today to reimburse those poor people who suffered, the people along the valley of the Illinois River that has been ruined. Their all has been taken away from them—not only a few dollars, not a few hundred thousand, but millions of dollars, all they have on earth, and there is a moral obligation. And yet we have now passed a provision in our Constitution to reclaim lands that are overflowed and now we go to work to provide for the overflow of yet other lands.

If there is a moral obligation upon the State of Illinois, why not put it in the fundamental law of the State and say what shall be done, and then perhaps the courts would furnish some effective remedy. Does this great imperial State of Illinois, with seven millions of people standing upon her soil, want to dig a ditch or allow others to dig a ditch that will bring financial ruin and distress to thousands of our citizens, and then provide for the reclamation of those overflowed lands, and provide for additional overflow lands and provide no remedy? The dominant fact remains, the diabolical fact that these people have been ruined financially and they have resorted to all the means known to the law and they are still left unhelped.

Do you want to continue that sort of thing? For one, I would pay those people for the damages they have suffered, if it took the last dollar in the treasury of the State of Illinois. The way I feel about it, I would take that ten million dollars, which will be voted no doubt by the legislature, and no doubt spent, and I would reimburse the people along the valley of the Illinois River for the damages that have resulted to them from the action of the State of Illinois.

Mr. DEYOUNG (Cook). I think your statement was that by some hocus-pocus—I think you used that term—the people along the Illinois valley were defeated in their rights. Do you want to withdraw that?

Mr. FIFER (McLean). I take that out. I said that on the spur of the moment.

Mr. DEYOUNG (Cook). Have they asserted their rights and did they prove their case?

Mr. FIFER (McLean). Those people are not lawyers. They are simple agricultural people, farmers who have little farms along the valley of the Illinois River, and perhaps they did not know until the statute ran against their claims that they had a right. But is this great State going to set up any statute against a claim of that sort?

Mr. DEYOUNG (Cook). Don't you think that if a person suffered the injuries or damages to his land of which you spoke that he would discover it within five years?

Mr. FIFER (McLean). Do you doubt the damage?

Mr. DEYOUNG (Cook). Assuming the damage to have occurred——

Mr. FIFER (McLean). I would remind my friend that there are hundreds of people, simple-minded people, who are unacquainted with the affairs of life and possibly never were in a law office and did not know their rights. The fact is that the damage was done; it exists today. They have sought a remedy and have failed.

Mr. DEYOUNG (Cook). And five years is too short a time to assert it?

Mr. FIFER (McLean). I say that the State of Illinois ought to set up no statute of limitations.

Mr. DEYOUNG (Cook). The State should open the door wide and not even have the protection of a private individual in the way of a statute of limitations?

Mr. FIFER (McLean). When the State sets up a bar and says that no action——

Mr. DEYOUNG (Cook). You are talking now about the statute of limitations apart from whether or not the State should be sued.

Mr. FIFER (McLean). Yes. I say a great state like Illinois, or any other state, ought not to set up any statute.

Mr. DEYOUNG (Cook). It should not only be sued, but it should not have the right to set up a statute of limitations?

Mr. FIFER (McLean). There may be instances where that ought to be set up, but would you, as a citizen of the State of Illinois, want, through the agency of the State—because that drainage district is an agency of the State—to damage people as they have been damaged and then have them sleep on their rights and not pay the debt?

Mr. DEYOUNG (Cook). I would say that the State of Illinois had no greater liability through the Sanitary District of Chicago than it has through any village or incorporated district of the State. You seem to argue for just a particular class of persons living in the State, who should, by some action of the State, be put into a favored class. You have raised it sympathetically here for the poor people who own those lands. How about the man who, by defective construction, or by the negligence of some of the servants of the State, loses his life here in this building or in any building or property belonging to the State. What recourse has he?

Mr. FIFER (McLean). I say if there is an honest, honorable claim against the State of Illinois the State ought never to set up a statute of limitations. The Federal Government has a Court of Claims, the same as we have, and awards have been paid running up into the hundreds of thousands and millions of dollars that have long been exiled by the statute of limitations, because they were honorable and because they were just, such as old claims arising out of the Civil War. Right here in the City of Springfield, in the Federal Court, awards have been made for cotton that was confiscated and farms that were ransacked and food taken for the armies of the Union. For years in many such cases were judgments secured right here in the Federal Court of Springfield. They only had to prove two things in order to recover; one, that they lost the property, and two, that they were loyal citizens at the time of the taking.

Mr. DEYOUNG (Cook). Your position is that the State should not only be liable, but that there should be no statute of limitations against those claims? Don't you know, Governor, just as well as most of us, that several General Assemblies in recent years have allowed claims where the Court of Claims have investigated the facts and where the statute of limitations had run many times over?

Mr. FIFER (McLean). Our court of claims? Yes, I know that.

Mr. DEYOUNG (Cook). Have these land owners ever presented a claim against the State of Illinois?

Mr. FIFER (McLean). I don't know. I know the damage; I know it is serious; I know it amounts to millions of dollars and people have been made bankrupt and their savings of a lifetime have been swept away.

Mr. DEYOUNG (Cook). And because of that we ought to open the door wide and give this great State no protection, and leave it an open target to the people who want to get money out of the treasury?

Mr. FIFER (McLean). I say that whenever the State inflicts an injury of that kind it cannot afford to say, "You did not assert your rights within the statute of limitations." I would feel humiliated as a citizen of Illinois if that is to be the case, and I think it is nothing more than right, if this thing is to proceed, to put a basic provision of that kind in the Constitution. If we want the deep waterway to make money, as claimed here, then let us stand on justice and say that we will pay the damages that we inflict upon innocent people, people in moderate circumstances.

Mr. JARMAN (Schuyler). May I ask the gentleman from Harvey a question?

Mr. DEYOUNG (Cook). Yes.

Mr. JARMAN (Schuyler). Is the gentleman the attorney for the sanitary district?

Mr. DEYOUNG (Cook). I was, yes, for a year, in the law department. I have not been since the first of the year. I hope that information will give the gentleman from Schuyler some satisfaction.

Mr. REVELL (Cook). It seems to me that the whence and the whithers of inconsistency lie very close together in the Land of Con Con. This morning, and in all the previous sessions at which this question has been up for discussion, we were continually being informed, reminded and warned that there would never be a sufficient amount of water going down, if any, through Central Illinois to float a boy's small yacht upon it; that the daisies and the lillies and the dandelions and the violets would grow upon the mossy banks of the streams as it slowly wound its death dealing way down through the various sections of Illinois, and that the whole project was impractical because of this certain lack of a sufficient amount of water. And now what do we hear? Today they are even going as far as Niagara and they visualize the immense waters of Niagara floating down this stream in a mighty torrent, inundating the adjacent lands for miles and miles around and causing havoc and ruin and destruction because of this excessive amount of water.

Mr. Chairman and gentlemen, it certainly seems to me that this is going too far out of the way to defeat this section of the Constitution. They cannot argue from both sides of the question; they cannot create assumptions or presumptions in the minds of the delegates in order to bring about this article's elimination. They must either stand by their facts or not urge them at all, and they cannot toss their arguments around like rubber balls.

Mr. JARMAN (Schuyler). Didn't Mr. Bennett say that they hoped to put down 15,000 cubic feet a second?

Mr. REVELL (Cook). They hoped to do it?

Mr. JARMAN (Schuyler). Yes.

Mr. REVELL (Cook). Well, suppose he did say it?

Mr. JARMAN (Schuyler). You thought it was too much water.

Mr. REVELL (Cook). Oh, other witnesses before this Convention have said a great many things that it is going to be impossible to do. Two hundred and fifty thousand cubic feet a minute will give everything we want through Central Illinois and it may some day come up to 400,000 cubic feet, but the point is that it makes no difference what amount is agreed upon. You gentlemen who oppose this whole article will find some basis of argument to present in order to stop the work that we are trying to do for the State of Illinois. I claim your position and your argument to be inconsistent.

(Motion lost.)

CHAIRMAN LINDLY. The question now occurs upon the adoption of Article 377, as amended.

(Motion prevailed. Article adopted.)

Mr. HAMILL (Cook). I move that the committee do now rise and report back Bill 377 as amended to become a part of the Constitution.

(Motion prevailed.)

President Woodward resumed the chair.

Mr. LINDLY (Bond). I am authorized by the Committee of the Whole to report back to you Proposal 377, which as amended has been adopted by that body, and the committee recommends that it become a part of the new Constitution.

(Report adopted.)

THE PRESIDENT. The report is adopted and will be referred to the Committee on Phraseology and Style.

Mr. SUTHERLAND (Cook). I move that the Convention do now adjourn to tomorrow morning at nine o'clock.

(Motion prevailed.)

Whereupon the Convention adjourned to Wednesday, July 7, 1920, at nine o'clock a. m.

WEDNESDAY, JULY 7, 1920.**9:00 o'Clock A. M.**

Convention convened pursuant to adjournment.

The President in the chair.

Prayer by the Chaplain.

THE PRESIDENT. The Journal of July 1st has been placed on the delegates' desks and is now subject to correction. There being no corrections proposed, the Journal of July 1st will stand approved, and it is so ordered.

Mr. MICHAELSON (Cook). I desire to present a petition from citizens protesting against the reading of the Bible in the public schools, and ask it be referred to the Committee on Bill of Rights.

(So ordered.)

THE PRESIDENT. Under the order of unfinished business, or perhaps under special orders of the day, there is pending for consideration a motion to reconsider the action of the Convention adopting the report of the Committee of the Whole on the Legislative Department. In that connection, the chair asks the indulgence of the Convention for just a moment.

This Convention has been in session since the early part of January. Practically all of the committees of the Convention have reported. About fourteen or fifteen propositions or reports of committees have been referred to the Committee on Phraseology and Style. There remains for disposition before the Committee of the Whole the report of the Committee on Revenue and Taxation and Finance, recommending a revenue article for the Constitution and the partial report of the Committee on Judicial Department, providing for the constitution and construction of a Judicial Department. There is also pending before the Committee on Chicago and Cook County the proposition of local municipal government for the local division of Chicago and Cook County.

The chair is advised that that report may be forthcoming within a short time, and the chair is further advised that there may be forthcoming from the Committee on Judicial Department a final report within a few days, if such report should become necessary. The suggestion has been made, and the chair has discussed the matter with a number of delegates, that the Convention should now take a recess until some time later.

The chair, as stated, has had informal discussions with a number of delegates on this question. The further suggestion came to the chair this morning that possibly it might be deemed wise further to postpone the motion to reconsider the legislative report, with the idea in view of formulating some policy and recommending some policy to the Convention. The chair discussed the matter somewhat at length with the Rules Committee. The Rules Committee and the chair are of the opinion that the question of a recess and the question of whether or not the Convention should now enter upon a consideration of the reports of the Committee on Revenue and of the Judicial Department, and of the report to be made by the Committee on Chicago and Cook County, should be left to the consideration of the Convention. The chair and the Rules Committee have no recommendations whatever to make, but wish the Convention to decide for itself what disposition it shall make of the special reports, and what the opinion of the Convention is relative to recess, and the time to which, if it is decided a recess should be taken, the adjournment should be made.

Mr. REVELL (Cook). I now move that this Convention take a recess, and when we convene it will be to convene on November 9th of this year.

Mr. CARLSTROM (Mercer). I would like to offer as a substitute to that motion that we proceed with the consideration of the reports of the Committee on Judiciary, Revenue and Home Rule for Chicago, and upon the completion of the consideration of these reports and such other matters as may be taken up in the interim, before we should adjourn or recess until November 9.

Mr. SUTHERLAND (Cook). Do you include the legislative report, amongst others?

Mr. CARLSTROM (Mercer). Yes, sir; I will state to the gentleman from Cook, I think that should be concluded before we recess.

Mr. HAMILL (Cook). The question which has now arisen is one which to my mind is of great importance, perhaps controlling importance. I need not remind you that there is pending before this Convention a motion made by me about two weeks ago to reconsider the vote by which the Convention approved the report of the Committee of the Whole recommending for adoption the legislative article. I have been informed this morning that at a meeting last evening of the delegates down State it was the opinion generally expressed that a consideration of that motion made by me should not be had unless the other important matters pending before the Convention should also be disposed of before the recess. If we recess now without disposing of the Revenue Article, the Judiciary Article and the Chicago and Cook County Article, and if the gentlemen from down State adhere to the opinion that they expressed last evening, we will recess leaving the public at large under the impression that the Legislative Article is adopted, and expresses the majority conclusion of this Convention. Gentlemen, in my opinion, that will be a fatal mistake. If we go away from here leaving the people of Cook county under the impression that it is the final resolve of this Convention that the representation of Cook county shall be limited in both houses, I think I speak with authority when I tell you that you will have practically every voter in Cook county set against the work of this Convention, and I know I speak with authority when I say to you that a very large portion of the delegates from Cook county will go away from this chamber with their interest in the work of this Convention totally destroyed. You will be unwise, gentlemen, if you recess leaving any such impression as that, among either the delegates from Cook county in this Convention or amongst the people of Cook county.

May I add just a personal word? I have taken great interest in the work of the committee of which I have the honor to be chairman. I have looked forward with zeal to the work of the committee. I have looked forward to working all summer on the work of the committee. It is arduous work, gentlemen; it is not simple. It means giving up all of one's summer to that work. I have expressed myself heretofore in no uncertain terms, I think, on the Legislative Article as it now stands. My opinion has not changed. Indeed, further time and reflection have only served to confirm the views I expressed, and I cannot, gentlemen, subscribe to any Constitution which contains a Legislative Article in the form in which it now stands approved by this body. I ask you to say frankly whether you think I owe it to this Convention or to the State I love that I should work all summer in trying to perfect an instrument which I am compelled by my conscience to be opposed to? I personally feel that I am not. It will be with the utmost reluctance, if at all, that I give myself to the work which you assign me, if you recess leaving the Legislative Article as it is.

Now, I realize just as fully as all of you do that the summer holidays are here. Springfield is hot. We have worked long—six months—and we would like to have our holiday, but, gentlemen, when we accepted our election to this Convention we accepted it, not to gratify our vanity, but we came here with the solemn duty of serving our State. If we can only serve our State satisfactorily by sitting here all summer, let us sit here all summer and do the job for which we were elected. Now, gentlemen, you are presented with a very practical situation, and if you are resolved not to determine the Legislative Article unless you determine them all, I say to you

in all conviction you must determine them all or you will crown the result of your deliberations with entire failure.

I submit very respectfully, Mr. President, and gentlemen of the Convention, if it is the conclusion of the majority of the delegates, that they will not consider the Legislative Article unless they consider them all, there is only one course to pursue, and that is to go forward with the work of the Convention until we have disposed of all the important matters.

Mr. SHANAHAN (Cook). May I ask the delegate from Mercer to change his motion so the Convention can decide whether they want to go ahead and complete the work and turn it over to the Committee on Phraseology and Style, or whether they desire at this time to take a vacation. If the Convention desires to go ahead and complete its work, it can do so, and if it desires to take a vacation, then the date at which they can reconvene can be considered later on.

Mr. CARLSTROM (Mercer). I would like to say in reply to that, I do not desire to complicate the main question in regard to fixing the date. I do want to say, if I may be permitted by unanimous consent, by striking out the date for the present, I do want to say on that question that when we do recess I do not see any object in fixing a different time, in view of the fact that we have a strenuous campaign before us, both National and State, involving all of the time before us up to that time, and I think it would be useless to do anything until that is out of the way.

Mr. Chairman. In order that that may be before the Convention, I move to strike out from the substitute the fixed date to which the recess should be taken.

Mr. REVELL (Cook). In order that we may proceed without complicating the question and find out what the majority of the delegates prefer to do, I withdraw that portion of the motion which referred to the date and will allow that to come in later.

Mr. SHANAHAN (Cook). I just want to say a few words on this subject. I think the gentleman from Cook, Mr. Hamill, said all I care to say with regard to the work of this Convention. I believe that the delegates to this Convention are responsible to the people. They accepted the high honor of membership in this Convention, and they knew when they accepted that honor that they had a work to perform. I doubt at this time if any delegate, no matter what his business engagements may be, no matter what his arrangements may have been last winter regarding a summer vacation, can go to the people and say, "On account of discomfort and the weather at Springfield and on account of the arrangements I made with my friends for a vacation, and on account of my business, I am anxious to take a vacation for two or three months." If this Convention will complete its work in the Committee of the Whole, and refer the whole matter to the Committee on Phraseology and Style, the members of the Convention can well say to the people, "We have completed our work, and it is necessary to give the Committee on Style at least two months to prepare its work and report back to the Convention." If we do not so proceed, we will be severely criticized, and we ought to be, by the people of this State, for fooling away good time.

Personally, I think within the next two weeks that this Convention can complete its work and turn it over to the Committee on Style and then take a recess and come back later on and receive the report from the Committee on Style with their recommendation, and if it is then necessary to take a later recess, it can do so.

Personally, I pay little attention to this question of injecting politics into this Convention, or that the work of this Convention may be injected into the campaign. So far, politics has never entered into the work of this Convention. We have never heard the word Republican or Democrat in the Convention, and no element in the Republican party or the Democratic Party has raised the issue. I doubt if they would raise the issue. We are here as representatives of the people, to do a great work for the people, and we ought to stay here and complete our work and turn it over to the

Committee on Style, and then take the necessary recess, in order that they may accomplish their work.

Mr. BARR (Will). Mr. Chairman and gentlemen of the Convention: It was my opinion yesterday that it would be difficult, if not quite impossible, at this time, to give the important matters that must come before the Committee of the Whole, the time, consideration and attention necessary on the part of the delegates, or it would be difficult to get that consideration and attention on the part of the delegates that these important matters require, in order that we may insure the quality of Constitution that we desire to present to the people for their consideration.

Last night there was a meeting of the delegates to this Convention from down State, and, without any attempt to in any way suggest what the Convention's attitude should be with reference to continuing at this time or the hurrying of the consideration of the important matters at this time, without taking a recess, I think I was quite correct in my conclusion that it was the view of the vast majority of the gentlemen who were there that this Convention should continue and take up the matters of the reports of the various committees and dispose of those reports before a recess was taken. There also did grow out of the discussion this idea that the reconsideration of the report of the Committee of the Whole on legislative department should not be taken up and considered at this time unless other matters, the revenue report and the other reports, were also taken up. It seemed to be the view of the gentlemen present that unless the Convention was to proceed to give consideration to other matters of importance this particular matter should not be picked out and dealt with as an independent proposition, while other matters went over, and I believe, as has been suggested by the two delegates from Cook, especially the delegate, Mr. Hamill, that this matter is an important one, and it would be desirable to have it disposed of or considered before recess. It is the view of the down State gentlemen that if that is done, the other matters ought to be considered before recess. Therefore it is my opinion that by all odds the most satisfactory result could be obtained for this Convention if it will continue in its deliberations and take up the reports of these several committees and dispose of them before we take a recess at all. So, Mr. Chairman, I believe that the motion of the gentleman from Mercer should prevail and this Convention should take up these important matters before any recess is taken.

However, I desire to say this as a member of the Revenue Committee, and I assume the other members of the other important committees feel the same way. It would be unwise to take up these important problems such as revenue, unless the entire matter can be disposed of before the recess is taken. In other words, we should not go into the matter of revenue unless we spent sufficient time to dispose of the subject in the Committee of the Whole; and unless we are going to have sufficient delegates to attend the sessions of this Convention to enable the Convention to dispose of those matters, then I am in favor of taking a recess at this time, but I do think that we should continue our deliberations until they are disposed of.

Mr. WILSON (Cook). I am perfectly willing to be charged with all the crimes which my friend, the ex-Speaker, has mentioned in his talk. I believe the temper of this Convention is such it ought to take a recess now.

I know that is my temper. I do not believe that we can gain anything, I do not believe that we can finish the Revenue Article, and I believe there are other controversial matters that will keep us here so long that finally we will have no quorum. I am for taking a recess now.

Mr. MILLER (Cook). So far as personal convenience is concerned, it would suit my personal convenience to go on until all these controversial matters are carried out. I assume my decision in that regard is not very different from many another delegate here. I am not getting a vacation, and I would not take any vacation if the Convention adjourns, but considering the matter, not from any personal standpoint, but from the stand-

point of the result to be obtained, I am very positively of the opinion that the Convention ought to adjourn this week until some time in the Fall. We have a good attendance here today. Why is it? It is because every delegate has been importuned to be here today because it was supposed that the matter of the Legislative Article would be discussed and perhaps voted on. Without that, of late we have not had a good attendance, we have not had anything like a good attendance, whether it be attributable to the hot weather or to the stress of political matters or to both, or to those and other causes. It is hardly necessary to discuss, but it seems pretty clear that political matter will be uppermost in every man's mind from now until Fall. And I am positively of the opinion that the important matters, so far as this Convention has them to consider, the balance of the Legislative Article, the Revenue Article, the Judiciary Article and other articles would take, if considered carefully, as they ought to be, about two weeks each. Otherwise they cannot receive the necessary careful consideration which is their due and which of necessity they must have, in order to have a good result, if we are to go on now and finish them and get them into the hands of the Committee on Phraseology and Style before we adjourn.

I think we must all agree that if we attempt that, we will not have a good attendance, we will not have a quorum here, and a majority of the time that we are sitting we will not have a quorum, and also that they will not receive the proper consideration and will not result in an article which we wish to go to the people as the deliberate result of our work here. Every Constitutional Convention that ever sat in recent years, in New York, Massachusetts and other States, has not found it necessary or desirable to push things through, as they do at the end of the legislative session, sitting in this State, and that is exactly what will be done if we undertake to crowd these things through now.

I fear the result of leaving the matter in its present shape over the summer vacation, and I fear the crystallization of the sentiment in Cook county and perhaps other places, against the Constitution if that is done. I think a motion to reconsider, if favorably acted on, and then the matter left there, it seems to me would be the wisest and best thing that we could do, and then adjourn and consider these matters of importance in the Fall.

Mr. CUTTING (Cook). I appreciate fully and agree very absolutely with the proposition that it would be very desirable if we could finish all of the various committee reports and have them in the hands of the Committee on Phraseology and Style before adjournment. I am perfectly ready to sit here all summer if it is necessary, to consider those things, but will this Convention do it? I am constitutionally opposed—I refer now to my own individual constitution—to coming down here and finding less than a quorum sitting here on various days, and unless the revenue matter and especially the judicial proposition shall receive the consideration of a majority of this Convention, it is a work of supererogation to put it into the hands of anybody to correct until the majority of the Convention has passed upon it.

Then there is this question of apportionment, that motion which was made the special order for this morning, for consideration here. Mr. Miller is absolutely right. If that matter is left as it is now, the opinion, at least of Cook county, and I take it of many other people, will be absolutely set against the Convention and all its works.

Every newspaper will harp on the things which they consider wrong in the apportionment. There is no question about that. Therefore, unless we are to settle all the questions, we ought not in my opinion to settle any of them, but the suggestion of the gentleman from the Seventh District, Mr. Miller, is correct. The thing to do, in my opinion, is to carry the motion to reconsider and leave it there, so that we can say to our friends and our enemies, "Yes, sir; the matter is still in the hands of the Constitutional Convention members; it is still to be considered; it has not been determined, even tentatively." The motion to reconsider has prevailed, but nothing

has been put in place of it. Let it stand there and then we can handle the matter, from our end of the State at least.

Mr. CARLSTROM (Mercer). I want to say a few words in regard to this substitute motion, and I will make it brief, because I believe that is one of the reasons which justifies the position of Mr. Cutting.

I think, gentlemen, if we get down to business as business men should, that we can transact all we have to consider on this motion in this week and next week and give them a real, thorough and fair hearing.

Let me suggest this that occurred to me, if we can get the tentative proposals in form and past first reading and take them home with us and study them during the recess and make notations on them for use on our return, we will then be ready to proceed with dispatch and facility which will quickly close the labors of this Convention. I believe that it is the only way it can be done.

If we quit here, I believe I would be ashamed of myself to go home and say, "I have been here six long months and have to say to my people we have not considered a serious proposition which was presented to us, yet. We have been quibbling and talking and arguing and debating for six months matters which they are interested in and on which they sent us down here to represent them, home rule and taxation. We have not even discussed some of those subjects. Let us stand by the ship. Let us quit talking about a quorum and let us stand by the ship and equip ourselves for the job that we have to do. I believe that we can do it and ought to do it. It is a serious question of policy which the Convention is determining now. If we can get the report of the judiciary committee and take it home to our people in the recess, get their opinion and the opinion of the lawyers and the bar associations, and come back here advised as to what our people want, and add it to our judgment, we will soon be finished with the work. I sincerely hope the substitute motion will carry.

Mr. JOHNSON (Bureau). I have listened with much interest to what has been said. It is all apparent to the minds of each of us that this Convention has not really touched the hem of the garment for which we came down here. Not a single object which made necessary the convening of this Convention have we yet discussed upon this floor, yet we have been here six months, and we are now proposing to dispose of the work of this Convention for which we assembled, between now and the first of August. Action with reference to the judiciary committee has been well cited by the honorable gentleman, Judge Cutting, from Chicago. There are also in this Convention some comprehensive notions as to the makeup of the judiciary which will take the place of our present judiciary. They ought to be given ample opportunity to express their views on the subject, and I trust they will be given that, so that we shall build a new Constitution which shall last for twenty-five or fifty years. There is a wrong assumption which harks through nearly every address which has been made here. It is this: That the first reading of a proposal is a finality.

Suppose, for instance, we reconsider this motion, and this Convention makes no improvement on the apportionment. Then what are you going to do? That the people of Chicago will pack up, bag and baggage, and remain home and not come back here and keep their oaths, is that what we will face? Is that the proposition that we are listening to here, not come back here to hear the second reading?

Isn't it sufficient that the people of the State of Illinois know this, as they are capable of understanding, that every proposal which is passed at the first reading is not final, that no proposal which shall pass first reading is final? It is only a tentative step in the program. Isn't that sufficient for the people of Illinois to know that they may rest their minds?

Let us think of ourselves, men, as men. Let us think of ourselves as statesmen, if you please, although we may not be. Let us think of ourselves as one in Illinois, each one working for Illinois, and to Illinois, and you will get fair play, men, when we shall have finished this document.

I give no names away, but I say to you who is the delegate that says Chicago is not in favor of some limitation, that the people of Chicago are not in favor of some limitation—I give no names away here, but I want to say to you that I live only one hundred and fifty miles from that city, and I know you voice not the truth of the great people who live up there. There are men who live there and there are women who live there and they are not a few by any means, who know it is just and right that any congested city or community or part of a State should be limited, or in other words should not be allowed to control the great people whose boundaries are the boundary line of the State, as there are otherwise.

I am in favor of the motion to take a recess until after the election.

Mr. REVELL (Cook). On this matter I regret I cannot be in accord with my distinguished colleague, Mr. Hamill, or my other colleague from Cook county, Mr. Shanahan.

When the matter was talked about among the delegates, at least it was not talked about in this Convention, about five weeks ago, it was stated that this Convention could finish up its work for first reading and refer it to the Committee on Phraseology and Style by the first of July.

Later on, when it was found that it could not be done, the date was set for the tenth of July. Now we are confronted with another guess upon the matter, and if I calculate the calendar right, the present guess is the twenty-fifth of July.

I agree with the gentleman who has just taken his seat that with the great importance attached to the many matters still coming before this Convention, it would be impossible to finish this work by the first of August or the first of September, but it would take a much longer time. If we stay here, we are not going to have it done in the way it should be done.

I am satisfied that the Convention is not in the mood to take up and settle these many important questions. It is true, as has been stated, that many of us can change our plans, and the work of the State of Illinois in this Convention is far more important than any plans which we may have made, but there is a distinct difference between the members as to those who wish to go on and those who do not wish to go on. It appears there is a distinct difference of opinion between the members of Cook county, and this should be apparent to every delegate in this Convention, when the matter of apportionment does come up, that the members of Cook county will never vote as a unit.

I hope, Mr. Chairman, that the amendment offered by the delegate from Mercer shall be voted down.

Mr. STEWART (Edgar). It seems to me as though we have had about sufficient light on this question, and I move you that the debates be now closed and that we proceed to vote on the question.

(Motion lost.)

Mr. LINDLY (Bond). I think two or three different things ought to be considered here on this question. One of the things I think should be considered is, What position will we be in when we come back here in the Fall if we do not finish this work now? Another thing to consider is that everybody has more time, as far as the business men are concerned, right now, outside of their vacations, than they have any other time of the year. I think, Mr. Chairman, if we come back here this week and next, and meet at nine o'clock and meet at two o'clock and meet at eight o'clock and stay here and work, we can complete this next week. It is true that the important reports of the committees have been left until the last thing in the Convention. It is always so in a legislative body; the great questions are left until the last. So I don't fear the discussion that will take place, as far as that is concerned. I believe it is our duty to stay here now and complete this work.

Two weeks ago we voted on this question and we voted to do that. If you wait for this work until next November, you will have to discuss these questions all over and give it to the Committee on Phraseology and Style. Where will you be at the first of the year? If you complete this work now

and let it go to the Committee on Phraseology and Style and then come back here in November, you will have the second reading and complete work of the Convention in November or December.

I am in favor of sitting here now and completing this work. I believe we owe it to ourselves and to the citizens and the good of the Convention and the success of the Convention that we proceed to sit here and do it. Let us do it. Let us call the roll and every day that we meet and see who is here.

Mr. TRAEGER (Cook). A few days ago we decided to take up at this morning's session the Legislative Article. Why that has been sidetracked, I cannot answer. The discussions here from time to time upon adjourning or remaining here have got to the stage where it appears to me as a joke. We were supposed to convene at ten o'clock yesterday morning and convened twenty minutes to eleven and we adjourned five minutes to twelve and convened at two thirty and at four twenty-five we adjourned for the day until nine o'clock this morning. If the clock was correct it was fifteen minutes after ten when we got to work and we are still talking and have done nothing. So far as I am concerned, I want to say I need no vacation; I never had one in my life. I am willing to stay until this work is completed, but I am not willing to stay to play around here like a lot of boys and work two hours a day. Something has got to be done to advance the work. I realize I am responsible to the people of my district, as well as every other delegate, and I want to say to you that the records show I was here as often as any delegate in this Convention. I am willing to do my duty but I have got sick and tired of the way we have been haggling around.

Now, then, the question of recess. It has been said the warm weather is something that is calling for adjournment. All we can judge by is the work that we have done for the last ten or twelve days, and at the rate we have been going I want to assure you we will not be home for Christmas dinner if we try to bring everything to first reading. Something has got to be done. I want to say that I believe that when we make an agreement, as we did by a vote, showing that the majority thinks that we should proceed with the subject matter, the motion to reconsider should be considered, and then if this body decides to remain here, I am willing to remain and do my work and in the place of convening at nine o'clock in the morning, I want to say that so many of us are patriotic and desire to do a lot of work, let us find out about it, let us convene at eight o'clock in the morning, as you would attend to your business at home; let us have our session and take time for lunch and get back to work, in place of putting only two hours a day in on it. I for one am tired. I have not made any threats about going home, because if I want to go home I will do it, so I am not making any threats. I don't ask anybody's advice about going home. If I want to do it I will. I want to complete my duty to my people, but I believe if we are going to do anything, it is necessary for us to get down to work. I don't care for the political end of it. I do probably as much as the other fellow, and there is plenty of time in the evening to do politics, and other days when you are home. If we convene Tuesday morning and go home Friday noon, applying ourselves to our work as we should, as we should have been applying ourselves, we would have been through with our work a month ago.

Mr. MILLER (Cook). It seems to me the gentleman from Bond made a pertinent remark when he said one of the important things to be considered is the work of this Convention when we reconvene. Now, we have seen this thing happen: We have seen less than a quorum here, and we have seen motions to limit debate before the debate had begun, and we have seen sections voted into the tentative Constitution with the knowledge and general understanding on the part of the delegates here that they were put there tentatively for the purpose of being discussed in the Fall.

As I have said before, there is no hurry about this thing; the work of the Constitutional Convention is not a thing to be hurried; we need not be afraid of our constituents or anybody else in the State of Illinois. If we

do our work thoroughly and well, when we get through with it, that is the time to face our constituents, and that is the time to ask their judgment. and not now.

Mr. SUTHERLAND (Cook). I started out with the conviction that I would vote for the motion of the delegate from Mercer, but as the language mint has continued to grind out a free, unlimited coinage of words, at no ratio at all, so far as limitation is concerned, I confess that I am wabbling in my original determination. I do think this: everybody that votes for the delegate from Mercer's motion ought to pledge himself to be here after he has voted, if that motion prevails.

Lest the wabbling go any further through a continuation of the debate, in self-defense I move the debate be closed.

Mr. FIFER (McLean). Whether this Convention adjourns today to convene in November, or whether we continue the work before us at this time, it will take just so much time to complete the work before us, and I think it will matter but little to the people of the State of Illinois whether we do that work in the sweltering heat of July or whether we postpone it to the cooling breezes of November, whether we complete that work in the excitement of a political campaign or whether we wait until that calm that always comes after a Presidential election. I do not believe that the people of Illinois are so foolish as to judge of an instrument to be submitted to them for their approval, until it is completed.

Consulting my own feelings in the matter, and consulting my physical condition, I shall vote for a postponement.

Mr. DUNLAP (Champaign). It has been said by some of the members who are in favor of adjourning, that we should adjourn until next fall, when we will come back here to work in such a manner as to accomplish better results. Now, I take it outside of the members of the revenue committee, who have been working for six months on the proposition, that there are very few of us who are very familiar with what a revenue section is, and I submit that a discussion of that matter at this time would be a most important thing to bring before this Convention, and would clarify our ideas and our thoughts on what should be put into a revenue section. Then we would have some idea of the principles that enter into such a law, whereas if we go away from here without discussing it and without coming to some conclusion about the matter, and come back here in November and then undertake to put through a revenue section, we will not have an opportunity for clarification.

Now, one other thing. If we decide to take a recess, it should be with the full understanding that everything goes over, the reconsideration matter goes over along with the rest. Let us stay here and finish up the whole subject if we find that we cannot complete all of it, except the I. and R. We can put that over until next fall and discuss that when the cool breezes blow, as the gentleman from McLean said. I hope that the Convention will not adjourn.

Mr. GORMAN (Cook). I believe that the best and most convincing argument for an early adjournment has been made by the way in which we have frittered away our time this morning in endless discussion of this question. I believe it is utterly impossible to conclude the work of this Convention in the next two weeks. There are dozens of graphophone records yet to be made for this Constitutional debate. I know we won't be satisfied until these records are made and our voices are properly transmitted to posterity. I am in favor of an early adjournment. I know we can make better records in the cool weather, and I think we ought to proceed to vote immediately upon the question of adjournment, and let us resolve that we will adjourn and come back here after the heated term and probably then we can facilitate the business.

THE PRESIDENT. The question is on the substitute offered by the gentleman from Mercer.

Mr. SUTHERLAND (Cook). I suggest it be understood that anybody answering "Aye" on this wants it clearly understood that they will attend.

Mr. CARLSTROM (Mercer). Roll call.

(Roll call; motion prevailed.)

Mr. BARR (Will). I move you now that the motion now under consideration for the reconsideration of the legislative department report be deferred until later.

Mr. HAMILL (Cook). The Convention is now resolved to continue with its work, and there is no more important matter for consideration before the Convention than is involved in the motion now pending. It matters little what the order pursued may be in disposing of the matters, but we have today a full attendance. The last call taken shows seventy-nine delegates present, and it seems to me that this question should be resolved when we have a full attendance. I can see nothing to be gained by postponing its consideration, and I trust very much that the Convention will see fit to consider the matter today and vote upon it while we are here. Let us get it out of the way and dispose of it.

Mr. MICHAELSON (Cook). This is the second time this procedure has been asked for. I feel as a delegate from Cook county we are entitled to a showdown on this question. The last vote recorded shows that there will not be a quorum in this Convention following today or this week, as only forty members voted to go through with the work to second reading. We are here today from Cook county to know whether the down State delegates intend to proceed with the action taken in the adoption of the Legislative Report, and we want that vote today, and if we don't get it, it is a question whether we will be here to listen to the vote when it is announced. There is a spirit of unrest prevailing in this Convention, and filling the minds of every delegate. What causes that spirit of unrest at this time? Nothing but the realization of the futility of all their efforts in this regard. Criticism has been made here, and largely, of the work of this Convention. The greatest question while we are at ease and not in session is the question of adjournment, and members of the Convention expressed themselves very forcibly on the outside, but when they come in here they vote so that the spirit of unrest will continue. The minds of the delegates are in such condition that they cannot give the proper consideration to matters of importance and it will become more so. The open season for political discussion is at hand, and the people are going to be called upon to speak on certain well-defined principles affecting their welfare. I think it were well if the delegates to this Convention should adjourn, although that matter has been decided, but we should have taken the action to adjourn in order to get the sense of the people on these questions.

Everything that has been brought to the attention of this Convention in the interests of the people of Illinois has been turned down, and it is a question whether this Constitution is being written in the interest of the people of Illinois. Let us give heed, let us wait until we get at the verdict in this great political campaign, and then let us see what the people really want in regard to some of the matters under discussion here.

In a meeting of Cook county delegates, a number of them stood up and said if this went for the limitation of Cook county, they would slam their desks. We are here to listen to the slamming of their desks. I am going to slam mine. Others have said that they would slam theirs. I want to hear that slamming; that is why I am here today, to get the verdict of this Convention on that question.

Mr. HULL (Cook). I think as a matter of justice to the Cook county members, a motion to reconsider should be passed and not postponed. In justice to the work of the Convention, I think the motion to reconsider should be passed and not postponed. It will leave a better feeling everywhere, whether action is taken of a different character or not, but even if the temper of the Convention is to open the question without further consideration, I believe that the motion to postpone ought not to prevail, but

the motion to reconsider ought to prevail, and I earnestly solicit the support of the members of this Convention on this subject.

Now, it may not be entirely germane to that question to say a word with reference to the motion that was passed a few months ago to stick to the job, but I think that you will find that motion has been like the Tuesday morning motion to sit the rest of the week, which has been adopted with enthusiasm at the beginning of the week and forgotten when Friday came, and I believe that we will have to reconsider that proposition later, and that it will be helpful in a reconsideration of that problem to reconsider now the question of the apportionment in the Legislative Article, so I hope the motion to postpone will not prevail.

Mr. McEWEN (Cook). I, in the hope and belief that we would dispose of this apportionment question, which is uppermost in our minds and on which so much depends, voted yes. Apparently some think by deferring it they can keep it alive for some purpose or other. We may all guess what the purpose is. I feel that there is a great question with regard to the success of the Constitution. I would like to see it disposed of and not allow it to remain in its present condition. I agree with the remarks of the delegate from Chicago, Mr. Hamill, that the sentiment is liable to crystallize against the Constitution unless we do definitely determine what the limitation shall be, and that it be in some sort of fair terms. So I want to explain my position on that vote of mine to remain here and work. If we can dispose of this question, I am favorable to sitting; if we cannot dispose of this question and it is going to be dangled as an issue to humiliate, irritate and injure, why I agree with the majority of my colleagues from Cook county that we had possibly better defer our activities until some later date.

Mr. DUPUY (Cook). On the vote taken a few minutes ago I voted aye. That was the motion to proceed with our work. I was very hopeful that we could make some further progress. I for one would be glad to stay here and finish the job before we go. However, it is a disagreeable time to go ahead with this work during hot weather, and I move to reconsider the vote by which the motion of the delegate from Mercer was carried, and I am entitled to do so by having voted for it. I think one or two or three others that voted in the same way, in the present situation and temper of this Convention and the situation in which we find ourselves, think it would be better if this matter go over until next Autumn. I therefore submit this motion.

Mr. DAVIS (Cook). A point of order. There is no motion pending before the house. The motion just made by the gentleman to reconsider another vote is admittedly out of order.

THE PRESIDENT. The point is well taken.

Mr. DUPUY (Cook). Well, I had an assurance from the gentleman who made that motion that this will have precedence over his. If he desires so to say, all right.

Mr. BARR (Will). I have no objection to the motion to reconsider being considered, and I am willing that my motion be held in abeyance for the time being.

Mr. HAMILL (Cook). I would suggest, gentlemen, that we can proceed to a vote upon my motion to reconsider, that if it is the wish of any considerable portion of the Convention that the further consideration of the Legislative Article should be deferred until the Revenue and Judiciary Articles have been discussed, I personally will not object to that procedure, but I want the motion to reconsider first discussed and voted on and I trust the motion to postpone the consideration of that motion will not prevail. I am perfectly willing that the discussion on the merits should be deferred until after the motion has been had.

Mr. GALE (Knox). I think it must be evident to every delegate in this Convention that this Convention stands now in very grave danger of becoming a rump Convention. I think every one of us would feel that if we make a limitation of Chicago's membership in the legislature, which appeals to Chicago as unfair and which they honestly believe is unfair, this

Convention will proceed with the country members; and the Chicago delegates must remember this, that unless there is a limitation of Chicago which is fair and which appeals as fair to the country members, this Convention will proceed to a conclusion without the country members.

Now, we might just as well talk out in meeting about this, because that is exactly where the situation stands. Now, I say, Mr. President, that it is an outrage for men such as we are, elected to represent the State of Illinois, not to be able to devise some plan which is fair to Cook county and fair to the down State; if we haven't got the brains and courage enough to do that, we are not fit for the trust that the people of the State of Illinois repose in us, and Mr. President, in view of the situation that has arisen and in view of the talks that have been had among the various delegates here, I do not think that we ought to vote on this proposition right now. Mr. President, I move we recess until one-thirty.

(Motion lost.)

Mr. TRAUTMANN (St. Clair). Gentlemen of the Convention, I want to say just a few words. I voted for the motion to continue to work, and I have done that every time the question came up in this Convention, but it is apparent to me that with only forty men out of seventy-nine voting to continue to work, judging by past experience in this Convention it will be impossible to continue to work after this week.

You will have the same condition next week that you have had heretofore. When any important matter comes up, it will have to be passed for consideration until more members are present. Now, we have before us the question of reconsideration, the question by which Sections 6, 7 and 8 of the legislative article were adopted the other day. I agree with the delegate from Knox that this Convention will go on the rocks unless that question is settled, and settled right, and in my judgment it has not been settled right, either to Cook County or down State.

Now, I agree with the gentleman from Cook who made this motion that before we adjourn for the summer we should at least vote in favor of reconsidering that vote; whether we go any further or not, we should at least have the matter on the calendar, here standing open for reconsideration, and that reconsideration be decided. I believe this morning, while we have as full a membership as we have had for months, that question should be voted on and I for one am in favor of reconsidering it, and then let it go over with the rest of the matters, without making any changes. That I believe is the best thing to do.

I think if you leave the doors closed, as they are closed now, and go home until next November, you will do more damage than you can cure for the next six months hereafter. Let us say to the people of Cook county and down State that we are ready to adjust this proposition whenever we come back next Fall by voting to reconsider now. In that way, you give that notice to the people of Illinois and the delegates in this Convention.

Mr. BARR (Will). Do I understand the motion to postpone the motion to reconsider is now before the Convention?

THE PRESIDENT. Yes.

Mr. BARR (Will). Gentlemen of the Convention, I think we are getting somewhat irritated and agitated over a matter that is not really necessary for us to get so nervous about. Difference of opinion seems to arise as to whether we shall vote to defer the consideration of the motion to reconsider, or whether we shall act upon the motion to reconsider at this time, and if the motion to reconsider is carried, to defer the subject matter of reconsideration until a later date. The fact of the matter is, the question is whether pending on the motion to reconsider or whether pending on the substance of the matter that has been voted to be reconsidered.

Now, as far as this committee is concerned and as far as I am concerned, I do not believe that there is any very decided difference in the status of the situation, whether we stand on the motion to reconsider or whether we stand on the subject matter that has been voted upon.

I desire to say to the gentlemen from Cook county, that there is not any ulterior motive underlying this motion to postpone, that there is not any purpose to dangle something in front of these delegates and drive them into doing something. I think the purpose of the motion is to arrive at a solution of this problem which we all appreciate is a very delicate one, and the very purpose of the action of this Committee is that we may have time to confer and to work out the various divergent views on the question of limitation, so that we may arrive at a conclusion that will be at least acceptable to the great majority of the people of Cook county, as well as the people down State.

Now, one of the delegates from Cook county said, "Let us have a show-down this morning." Of course if it is a show-down we want, we can get a show-down almost any time we want it, and I do not believe that we will be very much better off with a show-down than we would be with this matter held in abeyance, with the conscientious effort on the part of the delegates, and I might say all of the delegates, both down State and from Cook county, endeavoring to bring about a solution of this matter in a way that might be acceptable to the great majority of the delegates and to a great majority of the people of the State. Now, let us not misunderstand one another. Let us from down State not conclude that the Cook county delegates are endeavoring to push this matter over, which I do not believe they are. Let us not take the position on the other hand, gentlemen from Cook county, that the purpose in making this motion is to pass the reconsideration of this question at this time in order that the down State may be able to drive you into a position to do things that you might not otherwise be willing to do. In my opinion these matters stand independently. They are not matters for trading purposes and should not be considered such, either by the down State or by Cook county members, and I trust they will not be so treated. I just want to say, gentlemen from Cook county, at this time I do believe that we can arrive at a satisfactory solution of this problem, a solution that will be the best that can be obtained, and I believe it would be unwise to force the issue at this time; if it is deemed desirable to find out what is going to be done now, I think the thing that will be done this morning is not the thing that will be done finally, but if it is desired to find out what is to happen this morning, let us find it out.

But I think the thing that we are after is not a temporary advantage or temporary disadvantage. What we want is what is for the best interest of the final product of this Convention, and I think that is what we ought to work for. If we are right in our conclusions that we will arrive at a proper solution by having this matter passed for the time being, I think we are all sufficiently interested in the final product to be willing to waive for the time being a little personal idea that it should be settled today, and we will let it go along until it can be settled in the most satisfactory way. And I say, gentlemen, in my opinion it cannot be settled in the most satisfactory way this morning.

Let me suggest this, gentlemen, both to Cook county and down State, I am not doing this to lecture anybody, but there is no purpose on the part of the down State to hold this matter over the heads of Chicago to force them to do anything, absolutely none. There may be rumors and there may be suggestions and there may be gossip, about what is the intention, but there is not any such purpose, and I think I am justified in saying that there are enough individual delegates from down State who will vote with Cook county against any program with reference to this apportionment proposition to keep them from having this legislative matter used as a club to restrain them from doing something so that the entire subject matter of the report would not receive consideration on its merits. I think, gentlemen, I can say that the down State men or delegates are not going to have this matter of apportionment used to drive them to do anything, and I do not believe there is any considerable number from either section, down State or in Cook county, that has any idea of using this matter as a club to bring about a

different result than can be brought about on the merits of any individual proposition that may come before this Convention. Now, gentlemen, it is my judgment that the members of this committee, I mean by that the down State members of this Committee of the Legislative Department, have given this matter their very best consideration. We have endeavored, sometimes in the face of the criticism of our down State associates, to bring about a situation that will finally result in a report that we think will be reasonably acceptable to the people of Cook county, perhaps not just what they would like to have, but I believe a report that will be acceptable to the great mass of the people of Cook county. We are trying to do that. We are making some progress. I believe to force the thing at this time would not be a permanent advantage, but rather a disadvantage. But, gentlemen, as to whether or not this matter shall stand upon the motion to reconsider or whether it shall stand on the subject matter, after the motion to reconsider has been disposed of, I do not believe is so very important. I do believe that if the motion to reconsider is pressed at this time that it may be defeated, and this is the program that this committee has outlined, and I believe that the results will be more satisfactory if that program is followed out.

Mr. CORCORAN (Cook). As one member from Cook county, I would like to know how long this postponement is going to be. To my mind this question should be settled before we adjourn over the summer. There may be a question in my mind as to what we will do after this adjournment, and I would not care about coming back in the Fall and getting into it for three or four months and then later make up my mind that the 1870 Constitution which was good enough to live under fifty years, was as good as anything we could make here. I would like to have the question settled before we adjourn for the summer. I have always voted to stay here, but this time I voted "No." I stayed here several times on Friday and they had no quorum. If this postponement was not going to be until after the summer recess, I am for it, but if it is going to be after the summer recess, I am against it.

Mr. KERRICK (McLean). It seems apparent to me now, in view of the motion which was made by the delegate from Cook to reconsider the vote by which it was decided that we should continue to work here, that upon the vote taken upon that motion it will be definitely decided to adjourn at this time.

My health has been such that I have been absent only one day from the work of this Convention, and that to attend the funeral of a very dear friend of mine. I have missed but one committee meeting, and I am not the only one to say that. In the time that we have been in session, there is scarcely a member of this Convention who has not tried with all his might to learn what his duties were here and to become more capable of performing them. We get criticism enough from our people outside and the newspapers outside who don't know what is going on here; let us not load ourselves with criticism on this proposition. I think this Convention has a right to believe that we can go away from here with the confidence of the people that we have done all that we should do here.

Mr. HAMILL (Cook). With much that was said by the delegate from Will I am in entire accord. I hope in the course of time the sensible men of this Convention both from down State and Cook county will be able to agree upon a legislative article which will be acceptable to them, and that they can in conscience commend to their respective constituencies. That agreement has not yet been reached, and I think therefore it might be unwise to discuss at this time the further modification, if any, of the article, as approved in the Committee of the Whole. I do not think it would be wise further to postpone the action on the motion to reconsider. As I said before, we have a full attendance today, and I regard it as of the utmost importance to the ultimate ratification of the work of this Convention that the people of the State be advised today that the action taken before is not conclusive and that the gentlemen of this Convention are still of open minds

on this question. The only way the people can be so advised is to carry the motion to reconsider. It need not be that we then proceed to reconsider. That may be deferred. But we must by all means, it seems to me, carry the motion to reconsider at this time.

Mr. PADDOCK (Sangamon). I move we recess until two-thirty o'clock. Motion prevailed and the Convention took a recess until 2:30 o'clock p. m. of the same day.

2:30 o'clock P. M.

Convention met, pursuant to recess.

President Woodward in the Chair.

Mr. SHUEY (Coles). I wish to present a minority report from the Committee on Finance.

THE PRESIDENT. The report will be received and under the rules will be printed and lie on the table.

Mr. BARR (Will). Since the recess was taken I have had a conference with a number of the delegates to this convention, and in the opinion of a large number of the delegates, in fact, I think of all the down State delegates, it appeared that it might be desirable to have the motion to suspend action upon the motion to reconsider withdrawn in order that the motion to reconsider the vote of the Convention in adopting the report of the Committee on legislative matters, in order that that report might go upon the general orders and not stand upon the record as having been adopted. Many of the delegates from Cook county feel that it would be advantageous to have the motion prevail, and it is the earnest desire of the delegates from down State to cooperate and to work along the line that might be best adapted to the successful work of this Convention.

So, Mr. President, in compliance with that view, I now ask leave to withdraw the motion which I made this morning to defer action on the motion to reconsider the action of the Committee of the Whole on the report of the Committee on Legislative Department.

THE PRESIDENT. There being no objection, your request is granted.

Mr. HAMILL (Cook). I earnestly hope that the motion to reconsider will prevail, and I wish now to advise the Convention that as the mover of that motion I have agreed with the delegate from Will, who has just addressed the Chair, that in the event that motion prevails and the report of the legislative committee be again placed on general orders, I will not move to have it taken up for consideration until I shall have conferred with the delegate from Will, and he and I shall have had reasonable opportunity to agree upon a time when it may be considered. While that agreement is made by myself personally, I trust it will be observed by the other delegates from Cook, and I believe it will.

(Motion prevailed.)

Mr. BARR (Will). I move you that the report be now placed upon general orders.

(Motion prevailed.)

Mr. DUPUY (Cook). I desire to renew the motion which I made some time ago, that this Convention now take a recess until the 21st day of September.

Mr. GALE (Knox). Before that motion is put, in order that we may know what will be coming up at that time, I desire to ask the gentleman to permit a motion to be put now that the report of the Committee on Revenue be placed upon general orders, so that it may be called before this Convention immediately upon the reconvener of the same.

THE PRESIDENT. Will the delegate from Cook withdraw his motion?

Mr. DUPUY (Cook). Yes.

Mr. LINDLY (Bond). Do I understand that the motion of the gentleman from Cook is now before the house?

THE PRESIDENT. The Chair so understands it.

Mr. LINDLY (Bond). I move to substitute the 9th day of November for the 21st day of September, and just a remark or two on that, with your permission.

I do not believe that it is good judgment on the part of the delegates of this Convention to meet in the heat of a campaign. The primaries will just have been over; the officers of the State and the counties will have been nominated, they will be entering their campaign and the heat of the campaign will be on, and it is desirable that during this preliminary campaign the discussion of certain questions be not considered in the house. For instance, the question of revenue will come up for consideration, and it is not desirable that that question be taken up in the midst of a campaign. Besides, I believe that most of the men will have to be absent from the Convention at that time. I do not believe that it will be the desire of nearly a hundred men to absent themselves from a campaign in this State to come here to discuss these questions at that time, and I think it would be prudent and wise to adjourn until after election.

THE PRESIDENT. I am just reminded that the State Convention will be held on the 22nd of September.

Mr. REVELL (Cook). I am not going to make a speech. I merely rise to endorse every word which the delegate from Bond has said.

THE PRESIDENT. The question is upon the motion of the delegate from Bond.

Mr. HAMILL (Cook). Before the question is put, will you permit a suggestion or two on the question? If we recess until the latter part of September, between the 21st and the 28th, I believe it will be possible for your Committee on Phraseology and Style to have practically completed its work upon the first reference of the first sixteen articles submitted to that Committee. The consideration of those articles can then be taken up, and although these questions will be purely questions of form, yet they will undoubtedly take some time to consider. I know of no reason why these articles cannot be disposed of then. We can sit for two or three weeks without being excluded from the campaign activities, because I think we have all learned that the campaign does not become very active until about the middle of October. We can do two or three weeks work before that time and get a considerable amount of our work out of the way. If, on the other hand, we wait until the 9th of November, we shall have so much on hand that we could not dispose of it until well along in January, when the General Assembly will occupy this hall, and there is some question about our legal right to sit elsewhere than in this hall, and it is seemingly, therefore, the part of prudence for us to meet and dispose of such work as we can during those two weeks.

Mr. REVELL (Cook). Is there any legal question about the General Assembly to assemble in some other hall for about two weeks?

Mr. HAMILL (Cook). Yes, there is very grave doubt.

Mr. LINDLY (Bond). Campaigns generally—the ones I know about—commence right after the primaries. I don't know of any that wait till the middle of October. If a candidate waits till then, he is generally a skinned candidate. Do you think in the middle of a campaign that we will have a quorum in this hall?

Mr. HAMILL (Cook). I should think so.

Mr. LINDLY (Bond). Don't you think that if we are coming near to not having a quorum now that it will be more difficult to get one in the campaign?

Mr. HAMILL (Cook). I confess that I have not very great confidence in my own judgment on that because I have not had enough experience to know, but I should think that if the members of this Convention had from the 10th or 12th of October until election day that that ought to gratify their appetites for campaigning.

Mr. LINDLY (Bond). I make the prediction that you will not have a quorum.

Mr. RINAKER (Macoupin). I am opposed to the amendment of the original motion. I recognize the parliamentary propriety of a motion of this kind, but, for one, I want to express my dissent from the spirit of the motion. I protest against any recess at this time and particularly against such a reversal of the action of this Convention, which is supposed to be a deliberate body and to act from high motives. I do not believe it is possible for this Convention to meet in September or in November and to begin to dispose of these questions that are before us, and while what I have to say may be nothing but a personal protest, I desire to make it and urge the members to vote down both the motions and stay at our posts and finish the job up to the point when we can prepare and send out a rough draft for such criticism and comment as will follow, so that when we do meet in a short session to correct any mistakes we may make, we may be guided by that criticism.

Mr. STEWART (Edgar). I agree with what Mr. Rinaker has said. I am against the motion and the amendment. I think we ought to stay on the job and complete this thing. The stenographers and employees have come here, some of them from long distances, and they want to work this week, and to get these people back here in the fall will be some job. I think we ought to work this week, while we are here, and I think we ought to work until we get all these important questions to a first reading.

Mr. SHANAHAN (Cook). I am loath to speak on this subject again, but I am inclined to believe with the gentleman from Macoupin that this Convention is making a grave mistake in giving up its labors at this time and attempting to take a recess to a later date.

If it is the intention of the Convention that it should take a recess, I hope that it will deliberate carefully before a date of adjournment is decided upon. There is a practical side to this, gentlemen. If you recess until the 21st of September you can come back here and work three weeks, to about the 12th of October, and any man who desires to get into the campaign will have all the time that is necessary from then until the 2nd of November to do whatever canvassing or campaigning he desires, except such men as my distinguished seat mate, Judge Lindly, who is an officer of the Republican committee and will be compelled to give up all his time during the month of September.

You can come back here in September and work three weeks, and during those three weeks you can consider on second reading the reports of those three important committees which you had up today. You can finish that work and turn it over to the committee, and then take a recess until the 9th of November and come back here at that time, and the Committee on Style will have its complete report before the Convention so you can go to work on second reading and work during November and December. If you adjourn until the 9th of November and come back here at that time and then take up the report of those three committees, that will bring you almost up to the Thanksgiving holidays. You will then have to adjourn for at least six weeks in order to give the Committee on Style time to prepare its reports. Then it will be time for the 52nd General Assembly to convene. In order then to complete the work of this Convention you will be compelled to adjourn for six months longer.

Gentlemen, that is the practical situation, and before you vote, you should consider it. I think Judge Rinaker is correct in saying that we have a duty to perform and that we should go ahead with it. If for any reason we cannot do it now, we can come back here in September and do as much as we can then and finish up the preliminary work and turn it over to the Committee on Style so we can turn it over to second reading in November.

Mr. MILLS (Macon). There is no time when we can do this work as well as now. We can do it in less time than we can do it at any other time, and I am in favor of the position taken by these three gentlemen.

When General Grant was given a job to do, he said, "I will fight it out on this line if it takes all summer." It seems to me that that is the position

that these delegates ought to be in—that we are ready to do this job and do it now and give it all the time that is necessary to do it well. We can make a record not only for ourselves but for the State, and it seems to me, gentlemen, that it will be a grave mistake to take any recess or any adjournment. Let us get down to business and go to work and stay on the job.

Mr. REVELL (Cook). I have been defeated on this question of adjournment twice, and I am taking some chance in the few words I speak now of being defeated a third time. Usually it is three times and out, but I wish to present this practical thought to the Convention: First let me say, as the delegate from Cook has well said, this Convention has kept out of politics, and I agree with him, but I am quite sure you will not think it out of place if I refer to just one feature of politics which the adjournment to November 9th will amply protect, and that is that one of the candidates for high office in this State has already declared a large portion of his platform. In that platform there are included several things which we are going to have up for disposition and discussion before this Convention. Now then, if he is defeated or elected by a hundred or two hundred thousand majority, but upon the questions which he has already declared as a part of his platform, shall we arrogate to ourselves the full knowledge of all the people of this State, in the face of a majority of a hundred or two hundred thousand, one way or the other, and say that we know more than the people of this State do?

I believe it will waste your time to come here in September. I do not believe you will get a quorum. I sincerely hope when we adjourn, we adjourn to that time when we shall be free of all these dangers, when it shall be cool, and we shall come here ourselves somewhat cooler than we are at present.

(Amendment lost.)

(Motion prevailed.)

THE PRESIDENT. The motion is carried and the Convention stands adjourned to September 21st, 1920, at 10 o'clock A. M.

Mr. DUPUY (Cook). I respectfully ask for roll call.

(Roll call).

Whereupon the Convention adjourned to September 21, 1920, at 10 o'clock A. M.

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